

HM/B-22:133 and A-24:93 14 Belvidere Lot Severance Application

Danko, John-Paul <John-Paul.Danko@hamilton.ca>

Thu 6/6/2024 12:53 AM

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

Cc:Wojewoda-Patti, Nikola <Nikola.Wojewoda@hamilton.ca>

Please accept my comments on applications HM/B-22:133 and A-24:93 before Committee on June 11th, 2024.

I have reviewed the lot severance application for 14 Belvidere and offer the following comments:

1. The use of a shared easement driveway should not be permitted as a mechanism to sever additional lots. A shared easement driveway creates significant challenges for the City with ongoing issues over services, including waste collection, snow clearing, water, sanitary and stormwater connections, maintenance, utility connections, conflicts over parking, by-law enforcement etc. The Committee should not approve the creation of new lots that do not have direct access to the public roadway. I believe this is contrary to City development policy.
2. The application is not minor in nature and should require a formal re-zoning application through Planning Committee. The shared easement driveway will require a condominium agreement, along with a private waste management plan and winter maintenance agreements. These issues must be adequately assessed by City staff against City policies such as the Solid Waste Management Master Plan – which has restrictions on the allowance of private waste collection, which would be required here. Further, servicing the lots for water, stormwater and sanitary through a shared easement should be fully reviewed by both Growth Management and legal to ensure that the proposed connections meet City standards and that the legal agreements are sufficient to protect the City's interests. This level of evaluation is beyond the scope of the Committee of Adjustment.
3. The application and associated variances should not be approved without the inclusion of the proposed lot layouts showing structure envelopes and parking on the proposed new lots. The City now permits up to four residential dwelling units on each individual lot. Therefore, the creation of four individual lots could result in up to 16 residential dwelling units. Without the inclusion of structure envelopes, parking allowances and other details on what is actually proposed to be built, it is impossible for the Committee to adequately evaluate the suitability of the proposed variance application. As it is, several variances are already requested without any details on how this will impact the actual dwelling unit layout, parking or servicing configuration.
4. Neighbourhood residents generally understand that re-development of 14 Belvidere is permitted and that lot severances may be permitted. However, neighbourhood residents are very concerned that once the lots are severed, the actual development will not be consistent with the character of the surrounding single family homes. In order to assure neighbors that the actual development is consistent with the existing neighbourhood character, formal details of the size, location and layout of the proposed development should be provided before the proposed lot severances are approved.

Thank-you for your consideration,

John-Paul Danko, P. Eng.

Councillor Ward 8

West Central Mountain

Hamilton, Ontario

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June 6th, 2024

Please accept my comments and concerns with applications HM/B-22:133 and A-24:93 regarding 14 Belvidere Avenue, Hamilton, ON.

1. Residents were not provided an adequate timeline to prepare for the meeting of June 11.24. Less than two weeks is insufficient time. Many neighbours were not notified in writing of the meeting and the sign posted was adhered to a tree with duct tape that has continually fallen off the tree – hence others missing the notification. I would request that this meeting be deferred.
2. The results of the first Committee of Adjustment meeting of Feb 16.23 were not shared with concerned Residents.
3. Concern for the structure and potential damage to the surrounding homes and the Claremont Access if/when building and blasting takes place. If further damage is done to the Claremont and it needs to be closed again for repairs, that will affect our entire City.
4. A shared easement driveway is not acceptable for safety, for services provided by the City (garbage, snow removal, utilities, emergency vehicle access to name a few), and it will add to excessive traffic on Belvidere and Concession.
5. Safety of entering and exiting the property is significant due to the bend on the street – it is already a safety concern for existing homes as there has been numerous accidents on the bend and vehicles travelling this route are generally over the limit.
6. Environmental impact.
7. The existing well on the property.
8. Details have not been provided on the “type” of dwellings and the proximity to the main road that has been requested is of great concern. Is the applicant applying for single family homes that will only be one family or various families in one home – which again will impact the traffic and parking levels.
9. Was the signed petition that is in opposition of this project that was submitted to the Committee of Adjustments back in February 2023 reviewed by the City?
10. If 4 parcels are approved, has the added traffic flow and parking on the street been reviewed by the Traffic Department?

I am sure if a realistic time frame had been provided to review this application, more concerns would be noted.

Thank you for your consideration.

Patty Duarte

HM/B-22:133 and A-24:93

Betsy Dee <betsydee001@gmail.com>

Wed 6/5/2024 4:38 PM

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

Cc:Danko, John-Paul <John-Paul.Danko@hamilton.ca>;Shane Gaudet <sgaudet10@gmail.com>;James Smith <jimLsmith49@icloud.com>

External Email: Use caution with links and attachments

To the Committee of Adjustment:

Regarding applications HM/B-22:133 and A-24:93. In order for our neighbourhood and planning advisors to have sufficient time to review the current proposals and submit comments to the Committee, **we request that these files be deferred for thirty days.**

On Thursday, May 30, we received notice of these hearings. We were surprised to see a hearing date of June 11, with written submissions due this Friday, June 7.

This case currently involves 156 pages of documentation—and it doesn't appear that any of these pages contain results of the studies that were mandated in February 2023. So it's reasonable to expect that our community needs time to engage and consult with planning experts who can help us understand the details and the implications of the requests.

We would like to know the intention for the land. We would like to know what information the environmental studies yielded. We are concerned about the division into four lots, and need to see the proposed building footprints before we can take any position on the matter -- particularly in light of a second request (A-24:93) for significant variances on each of these lots. These variances could have a major impact on city trees, traffic and parking; areas of concern for us already.

A 30-day deferral will allow us the time needed to review and understand what we face. We hope you agree.

With thanks for your time and consideration,

Betsy Dee

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Betsy Dee

betsy dee & co

Cell 415 265 3963

Soul #betsydee

June 7, 2024

By E-Mail Only to cofa@hamilton.ca

Jamila Sheffield, Secretary Treasurer
Committee of Adjustment, City of Hamilton
71 Main Street West, 5th Floor
Hamilton, ON L8P 4Y5

Dear Ms. Sheffield:

**Re: Submissions on behalf of Marie Frances Theresa Di Silvestro
Committee of Adjustment (the “Committee”)
Application Nos. HM/B-22:133 & A-24:93 (the “Applications”)
14 Belvidere Avenue, City of Hamilton (the “Subject Property”)**

We are counsel to Mrs. Di Silvestro, the owner of 7 Harbourview Lane in the City of Hamilton (the “**Di Silvestro Property**”). The Di Silvestro Property and the Subject Property share a common boundary.

On behalf of Mrs. Di Silvestro, we request that the Committee refuse the Applications for the reasons discussed below.

More Information About a Bad Proposal Will Not Help

The consent application was before the Committee on February 13, 2023 at which point it was deferred due to inadequate materials.

Though additional materials have been provided, the piecemeal approach continues. For example, the public notice for the variance application contains the following caveats:

Insufficient information was provided to determine full zoning conformity.

...additional variances may be required if zoning conformity cannot be achieved.

The caveats were there for good reason. Since the public notices were published on May 23, 2024, the applicant has modified the application further (a third time) giving rise to another new lot arrangement and new variances.

Problematically, there is still uncertainty about the variances required, at least in part because there are no architectural plans to assess.

To compensate for the lack of reliable materials, City Staff have produced a list of conditions requiring review and approval of information that should already have been completed, including:

- Approval of the Environmental Impact Statement which, as noted by Staff, has numerous deficiencies and may lead to further lotting adjustments.
- A Landscape Plan and Vegetation Protection Zone Planting Plan prepared by a certified landscape architect.
- Evidence of a mutual access agreement.
- Two conditions regarding the adequacy of zoning relief.

The issue is, even if further information is provided, the fundamental problem with the application remains – overdevelopment is leading to unacceptable negative impacts.

Tree Removal is a Result of Overdevelopment

We have reviewed the Applicant’s Tree Preservation Plan to the best of our ability. It confirms that two trees need to be removed near the common boundary of the Di Silvestro Property and the Subject Property. One tree, No. 227, is a Norway Maple of 70 cm at diameter breast height and is the second largest tree on the Subject Property. The other tree, No. 228, is a Black Locust of 60 cm at diameter breast height and is also a larger tree. The location of both trees is shown circled below.

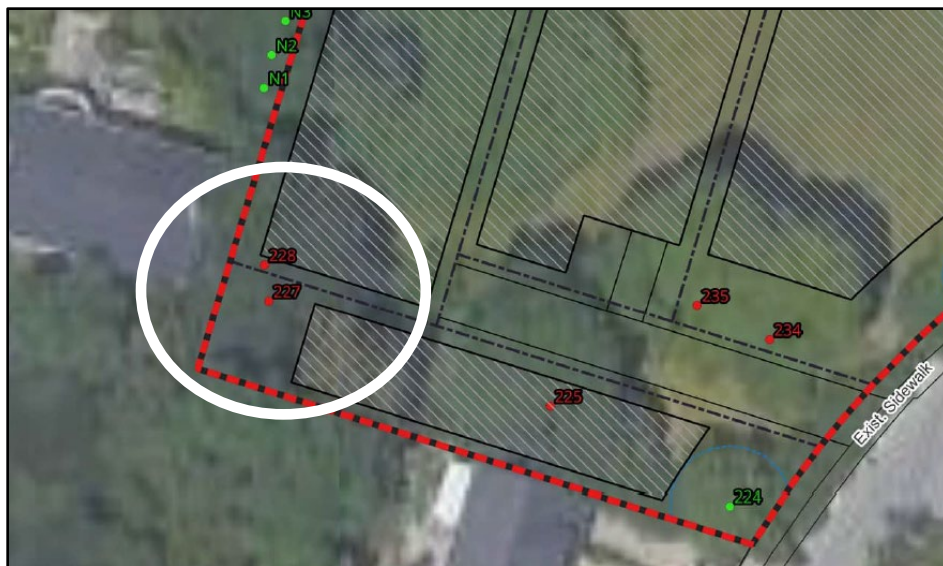


Figure 1: Excerpt of Tree Inventory Map 3

These two trees are healthy. According to the Tree Preservation Plan they have good trunk integrity, canopy structure, and canopy vigour. The reason they are being removed is, “due to direct conflict with the proposed home locations”.

There is No Agreement About Protecting Trees on the Di Silvestro Property

The Tree Protection Plan identifies five trees that are near the common boundary, but on the Di Silvestro Property. These five trees are labelled N1 to N5 as shown below.

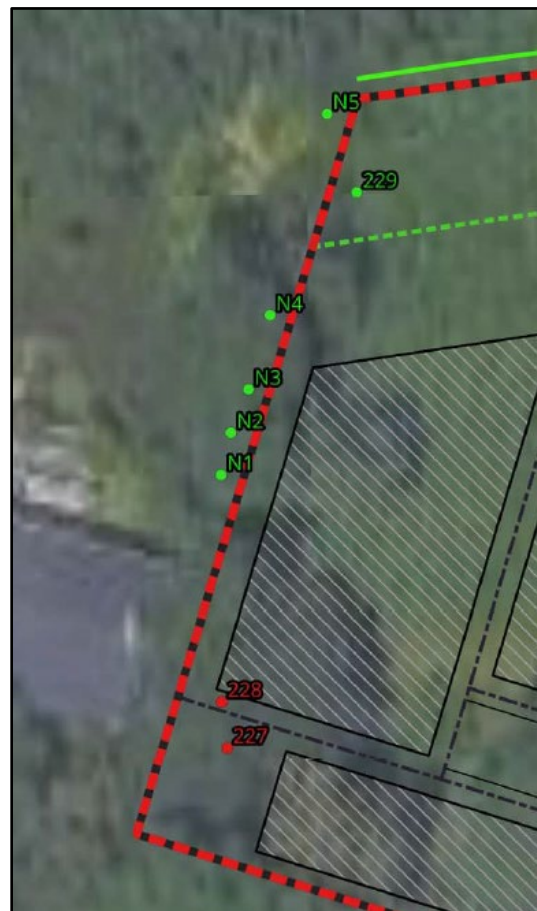


Figure 2: Excerpt of Tree Inventory Map 3
(north-east corner of the Subject Property)

The Tree Protection Plan does not discuss the impacts of the proposed development on trees N1 to N4. However, it does state, “[p]rotection requirements for trees located on the neighbouring property (N1 to N4) will be determined through an agreement with the neighbour”. As we understand it, no negative impacts are anticipated for tree N5 given its distance from the development site.

We wish to be very clear. The protection requirements for boundary trees N1 to N4 have not been discussed with Mrs. Di Silvestro. There is no agreement in place.

The Lot Configuration is not in Character with the Neighbourhood

In comments about the proposal, the Applicant’s cover letter speaks to density metrics and makes comparisons to Bull’s Lane and Harbourview Lane. Bull’s Lane is deemed to be a street pursuant to s. 4.14 of By-law 05-200. Harbourview Lane also functions like a minor street. Neither Lane is anything like the proposed extended driveway.

In our view, the better comparison is to other lots on road bends in the neighbourhood. As can be seen below, lots under such circumstances are street-oriented and do not gain access through an extended driveway. Accordingly, the proposed lotting scheme is not in character with the neighbourhood. Furthermore, the lotting scheme does not reflect good design as required by policy B.2.4 of the Official Plan, since Lot 2 is dependant on Lot 3 for access.

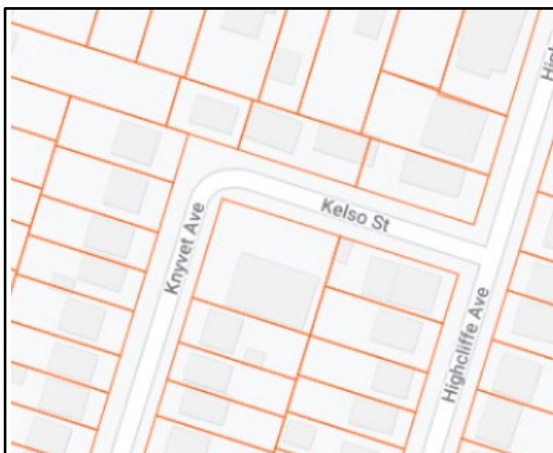


Figure 3: Kynvet Avenue and Kelso Street
 (one block south-west of the Subject Property)

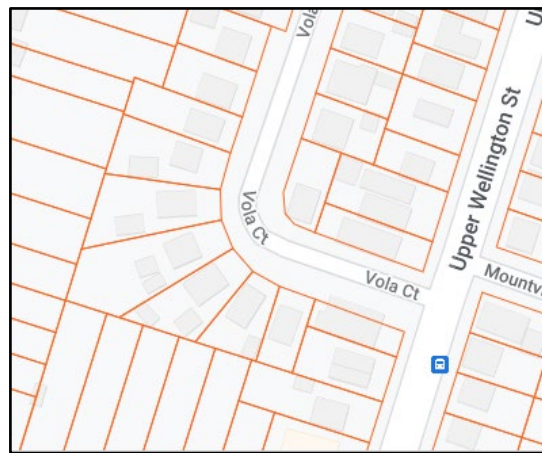


Figure 4: Vola Court
 (three blocks south-west of the Subject Property)

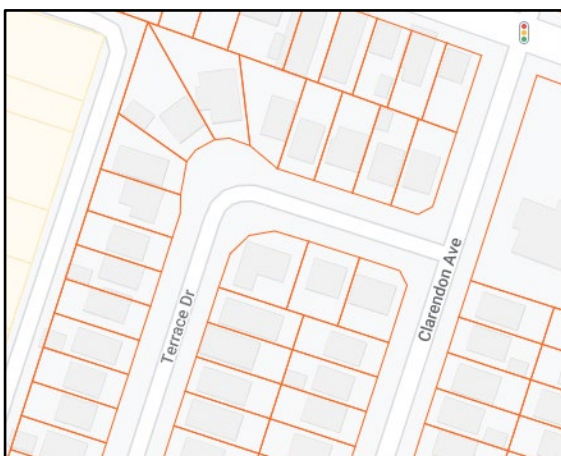


Figure 5: Terrace Drive
 (south of the Subject Property across Fennell Avenue East)

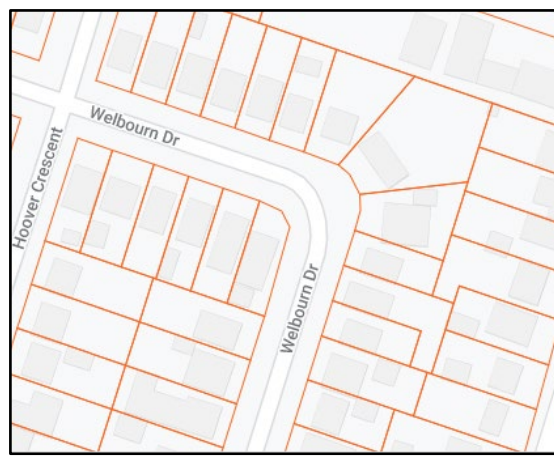


Figure 6: Welbourn Drive
 (south of the Subject Property across Fennell Avenue East)

Section F.14.3.1(f) of the Official Plan requires new lots to have frontage on a public road. From a zoning perspective, a minimum frontage width of 12.0 m is required. The general purpose for these requirements is to:

- ensure utilities can be made available to each lot separately,
- allow direct access to each lot, and
- create a consistent lotting pattern.

Access for Lot 2 is not proposed across its frontage. Lot 2 will instead be totally reliant on Lot 3 for access. Such arrangements routinely deteriorate over time due to disputes over shared maintenance costs, snow removal, and parking privileges / blockages.

Frontage for Lot 2 is proposed to be 4.0 m instead of the minimum required 12.0 m. The scale of the lot frontage relief is so large it highlights the problematic lotting while demonstrating that the requested relief cannot meet any of the four tests for a minor variance.

Redefining Rear and Front Lot Lines Masks Impacts

The variance serving to redefine rear and front lot lines results from the awkward orientation of the proposed lots. It also masks a discussion of impact relating to setbacks to the Di Silvestro Property.

If the lots were oriented to Belvidere Avenue, the required setback to the Di Silvestro Property would be a minimum rear yard of 7.5 m. However, by redefining lot lines, the “rear yard” of Lot 3 becomes a “side yard” which only requires a setback of 1.2 m to the Di Silvestro Property.

By redefining lot lines, the Applicant avoids the need to obtain setback relief for Lot 3, but the negative impacts on Mrs. Di Silvestro do not go away. The negative impacts relate to:

- Avoidable removal of two large trees that could otherwise help screen new development,
- Potential harm to trees on Mrs. Di Silvestro’s property without agreement,
- Building massing at a scale and in a location it would not typically be if the lots were street-oriented, and,
- Overlook into Mrs. Di Silvestro’s backyard which would be reduced with a more appropriate setback.

If the number of proposed lots were reduced by one, allowing each to be oriented to the street, these impacts could likely be avoided.

Lack of Opportunity for Peer Review

Despite the length of time they have been completed, our client has not had the opportunity to obtain a peer review of the following supporting studies, as they were not made available until published in the Committee's agenda in late May 2024:

- *Geotechnical Considerations*, Soil-Mat Engineers & Consultants Ltd. (July 13, 2023);
- *Environmental Impact Statement*, GeoProcess Research Associates (March 5, 2024); and,
- *Tree Preservation Plan*, GeoProcess Research Associates (March 5, 2024).

As a result, there may be other issues we are not able to articulate in this letter due to the timing constraint imposed by the Applicant.

Conclusion

To reiterate, we request that the Committee refuse the Applications.

New applications for a proposal with three lots and three dwellings would likely better suit the Subject Property and reduce the negative impacts on Mrs. Di Silvestro.

In the alternative, should the Committee approve the Applications, we request that the Committee impose the following condition on both the consent and variance applications:

The Applicant shall provide a copy of the agreement entered into with the owner of 7 Harbourview regarding the protection of trees N1, N2, N3, and N4, as required by the Tree Protection Plan prepared by GeoProcess Research Associates dated March 5, 2024.

We wish to thank the Committee for taking these submissions into consideration.

Please continue to include us on the circulation list. We specifically request notice of the Committee's decision and to be provided with notice of any appeal of the Committee's decision.

Please do not hesitate to contact me should you have any questions.

Yours truly,
DAVIES HOWE LLP



Alex Lusty (he/him)

AL: go

copy: Joe Buordolone, City of Hamilton
Franz Kloibhofer, A.J. Clarke and Associates Ltd.
David McKay, MHBC Planning
Client

June 6, 2024

William and Sally Moggach

32 Belvidere Ave

Hamilton

L9A 3B7

RE: Application A-24:93 for variances at 14 Belvidere

We have been the owners of 32 Belvidere Ave since 1991 and the family has been in residence since 1953. We have some concerns about this application.

- 1 Without an acceptable EIS study can the application be put forward
- 2 What will be the lot line clearances from the east and west property lines be from the retaining walls. Would it be 3 meters horizontal from each meter vertical.
- 3 Should the lot 5 access be designated a fire route to ensure access not be obstructed to lot 3 in the event of a fire
- 4 Who will retain ownership of lot 5
- 5 Will lot 3 use lot 5 for the routing of services such as sewer and water. Will it be exclusive to Lot 3
- 6 Why are the trees being removed replaced on a 1 to 1 ratio instead of the accepted matching diameter inch
- 7 Why will the 10 meter escarpment buffer zone not be maintained.
- 8 With the proposed building envelopes, the impermeable areas around the foundation walls, the paved surfaces and not including the 10-meter escarpment buffer zone where will all the rain water go. What percentage of the surface will be left to absorb the runoff from the roofs and impermeable areas. Based on irrigation calculations 25 mm of rain would generate 80,000 liters of water. This should not be going over the escarpment. Currently the ground cover and trees are handling the water. We note this as our garage is at the basement level and during heavy rains the exterior drain in our driveway cannot keep up and the water will pond and enter the garage. This is just from our driveway surface. Over 50% of our property is permeable with 5 mature trees , shrubs, bushes and gardens in the rear plus the front trees, shrubs and gardens
- 9 We did not see in the proposal how the wellhead will be managed
- 10 Has it been included in the consideration that the surrounding homes are elevated to work with the bedrock. In the EIS that was rejected elevation checks were made. Using the manhole in street as a base with a reference value of 100 all the points on property had a value of less than 100 creating a dish. The original house had a basement entrance down 2 steps from grade. It would generate an entire new set of questions if excavations are being considered for the proposed basements and services to serve these homes.

RE: June 11, 2024 COA Agenda Available

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

Thu 6/6/2024 8:19 AM

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

Cc:Henderson, Brandon (MNRF) <Brandon.Henderson@ontario.ca>;Gu, Longyu (MNRF) <Longyu.Gu@ontario.ca>

Attn: Jamila Sheffield,

NEC staff have reviewed the June 11, 2024 CoA agenda and offer the following comments for your consideration.

The subject properties listed below are located outside of the Niagara Escarpment Development Control Area. As such, a Development Permit is not required from the NEC for development on these lands. However, the properties are located within the Niagara Escarpment Plan Area, and therefore, the policies of the Niagara Escarpment Plan (2017) are applicable. The subject properties are all designated Urban Area, and as such, the policies in Parts 1.7 and 2 of the Niagara Escarpment Plan apply.

- 209 Foxridge Drive
 - NEC staff have no concerns with the proposal for a deck.
- 189 Lloyminn Avenue
 - NEC staff have no concerns with the proposal for a detached structure (garage) accessory to the existing single dwelling.
- 14 Belvidere Avenue
 - NEC staff note that previous comments were submitted in February 2023 by our staff requesting additional information in the form of a geotechnical assessment, development concept plan, and vegetation protection plan. NEC staff note these items appear to have been provided in this resubmission.
 - NEC staff have reviewed the additional information provided and are satisfied that the development will not negatively impact steep slopes and scenic resources or natural heritage resources.
 - NEC staff have no further concerns, subject to development proceeding in accordance with the recommendations of the studies undertaken.
- 46 Southmeadow Crescent
 - NEC staff have no concerns with the proposed consent.
- 238 Mountain Park Avenue
 - NEC staff have no concerns with the proposed consent.

Please let me know if you have any questions.

Kind regards,

Kendra Adair (She/Her)

Planner | Niagara Escarpment Commission

232 Guelph Street, Georgetown, Ontario, L7G 4B1

905-703-0827 | www.escarpment.org