



Hamilton

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

NOTICE OF PUBLIC HEARING
Minor Variance

You are receiving this notice because you are either:

- Assessed owner of a property located within 60 metres of the subject property
 - Applicant/agent on file, or
 - Person likely to be interested in this application
-

APPLICATION NO.:	A.24.121	SUBJECT PROPERTY:	70 and 72 Tom Street, Hamilton
ZONE:	"R1a" (Low Density Residential – Small Lot Zone)	ZONING BY-LAW:	Zoning By-law City of Hamilton 05-200, as Amended

APPLICANTS: Owner: Roya Dieba
 Agent: EcoVue Consulting Services

The following variances are requested:

1. A minimum lot area of 117.0m² shall be permitted for the retained lands and a minimum lot area of 125.0m² shall be permitted for the severed lands instead of the minimum 225.0m² lot area required.
2. A minimum lot width of 7.7m shall be permitted for the retained lands and a minimum lot width of 6.9m shall be permitted for the severed lands instead of the minimum 7.5m lot width required.
3. A minimum 0.0% landscaped shall be permitted to be maintained for each of the lots instead of the minimum 30.0% landscaped area required.
4. No onsite parking shall be permitted to be maintained for each of the lots instead of the minimum one (1) parking space required per unit.

PURPOSE & EFFECT: To facilitate the severance of the subject lands in order to create two lots.

Notes:

These variances are necessary to facilitate Consent Application HM/B-22:73).

The applicant requested a variance to permit a 0.0m side yard, however, this variance is not required as the zoning By-law 05-200 permits a 0.0m side yard abutting a common wall.

Parking spaces located on the road allowance or partly on the road allowance are not recognized for zoning purposes. Therefore, as no onsite parking is provided, variance #4 is requested to permit no onsite parking.

A.24.121

This Notice must be posted by the owner of any land which contains seven or more residential units so that it is visible to all residents.

This application will be heard by the Committee as shown below:

DATE:	Tuesday, June 25, 2024
TIME:	2:45 p.m.
PLACE:	Via video link or call in (see attached sheet for details)
	City Hall Council Chambers (71 Main St. W., Hamilton)
	To be streamed (viewing only) at www.hamilton.ca/committeeofadjustment

For more information on this matter, including access to drawings illustrating this request and other information submitted:

- Visit www.hamilton.ca/committeeofadjustment
- Visit Committee of Adjustment staff at 5th floor City Hall, 71 Main St. W., Hamilton
- Call 905-546-CITY (2489) or 905-546-2424 extension 4221

PUBLIC INPUT

Written: If you would like to submit written comments to the Committee of Adjustment you may do so via email or hardcopy. Please see attached page for complete instructions, written comments must be received no later than noon June 21, 2024

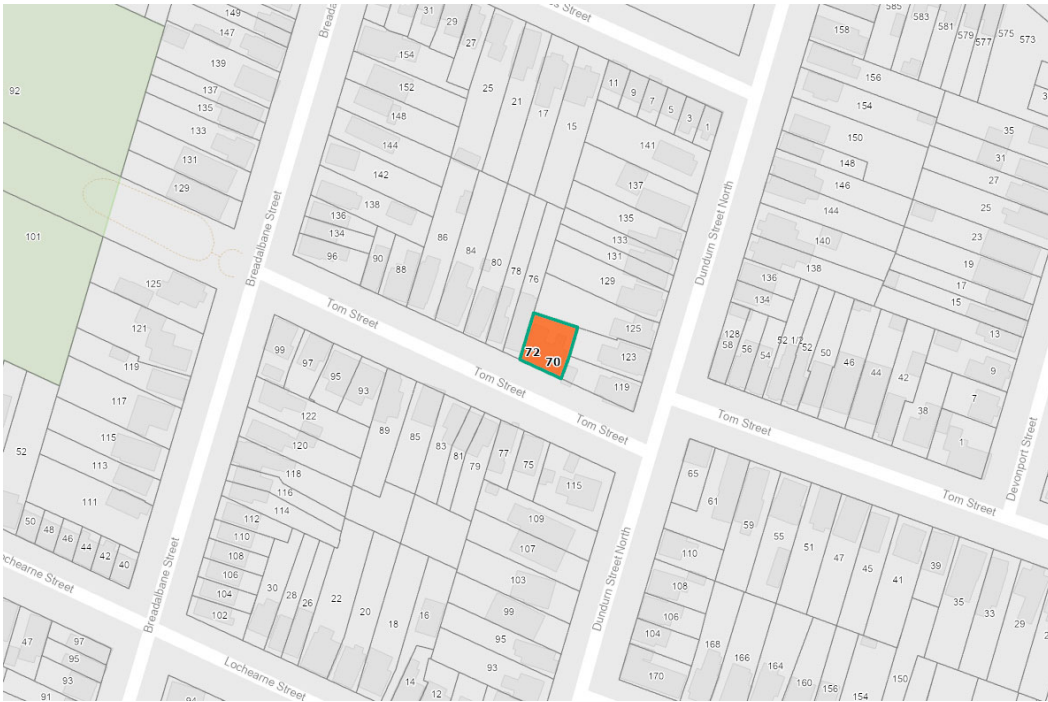
Orally: If you would like to speak to this item at the hearing you may do so via video link, calling in, or attending in person. Please see attached page for complete instructions, registration to participate virtually must be received no later than noon June 24, 2024

FURTHER NOTIFICATION

If you wish to be notified of future Public Hearings, if applicable, regarding A.24.121, you must submit a written request to cofa@hamilton.ca or by mailing the Committee of Adjustment, City of Hamilton, 71 Main Street West, 5th Floor, Hamilton, Ontario, L8P 4Y5.

If you wish to be provided a Notice of Decision, you must attend the Public Hearing and file a written request with the Secretary-Treasurer by emailing cofa@hamilton.ca or by mailing the Committee of Adjustment, City of Hamilton, 71 Main Street West, 5th Floor, Hamilton, Ontario, L8P 4Y5.

A.24.121



 **Subject Lands**

DATED: June 6, 2024

**Jamila Sheffield,
Secretary-Treasurer
Committee of Adjustment**

Information respecting this application is being collected under the authority of the Planning Act, R.S.O., 1990, c. P. 13. All comments and opinions submitted to the City of Hamilton on this matter, including the name, address, and contact information of persons submitting comments and/or opinions, will become part of the public record and will be made available to the Applicant and the general public, and may include posting electronic versions.



Hamilton

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City Hall, 5th floor, 71 Main Street West, Hamilton, ON L8P 4Y5

Telephone (905) 546-2424, ext. 4221

E-mail: cofa@hamilton.ca

PARTICIPATION PROCEDURES

Written Submissions

Members of the public who would like to participate in a Committee of Adjustment meeting are able to provide comments in writing advance of the meeting. Comments can be submitted by emailing cofa@hamilton.ca or by mailing the Committee of Adjustment, City of Hamilton, 71 Main Street West, 5th Floor, Hamilton, Ontario, L8P 4Y5. **Comments must be received by noon on the date listed on the Notice of Public Hearing.**

Comments are available the Friday prior to the Hearing and are available on our website: www.hamilton.ca/committeeofadjustment

Oral Submissions

Members of the public are also able to provide oral comments regarding Committee of Adjustment Hearing items by participating Virtually through Webex via computer or phone or by attending the Hearing In-person. Participation Virtually requires pre-registration in advance. Please contact staff for instructions if you wish to make a presentation containing visual materials.

1. Virtual Oral Submissions

Interested members of the public, agents, and owners **must register by noon on the day listed on the Notice of Public Hearing** to participate Virtually.

To register to participate Virtually by Webex either via computer or phone, please contact Committee of Adjustment staff by email cofa@hamilton.ca. The following information is required to register: Committee of Adjustment file number, hearing date, name and mailing address of each person wishing to speak, if participation will be by phone or video, and if applicable the phone number they will be using to call in.

A separate registration for each person wishing to speak is required. Upon registering for a meeting, members of the public will be emailed a link for the Webex meeting one business day before the Hearing. Only those registered will be called upon to speak.

2. In person Oral Submissions

Interested members of the public, agents, and owners who wish to participate in person may attend Council Chambers on the date and time listed on the Notice of Public Hearing. Please note, you will be required to provide your name and address for the record. It is advised that you arrive **no less than 10 minutes** before the time of the Public Hearing as noted on the Notice of Public Hearing.

We hope this is of assistance and if you need clarification or have any questions, please email cofa@hamilton.ca or by phone at 905-977-1654.

Please note: Webex (video) participation requires either a compatible computer or smartphone and an application (app/program) must be downloaded by the interested party in order to participate. It is the interested party's responsibility to ensure that their device is compatible and operating correctly prior to the Hearing.










URBAN PROTECTED RESIDENTIAL

SUBJECT PROPERTY
±242.50m²

KEY MAP
1/2,500

LEGEND

-  EXISTING PARCEL
-  EXISTING STRUCTURES
-  EXISTING DRIVEWAY
-  EXISTING SIDEWALK (1.45m)
-  EXISTING WALKWAY (TO BE REMOVED)
-  LANDS TO BE RETAINED
-  LANDS TO BE SEVERED

LANDS TO BE SEVERED
±125.00m²

EXISTING RESIDENCE
(TO BE SPLIT)

LANDS TO BE RETAINED
±117.50m²

URBAN PROTECTED RESIDENTIAL

URBAN PROTECTED RESIDENTIAL

GROUND FLOOR AREA =
±77.65m²

GROUND FLOOR AREA =
±64.10m²

PROPOSED WALKWAY LOCATION

PROPOSED DRIVEWAY LOCATION

EXISTING TREE

TOM STREET
RIGHT-OF-WAY
(20.00m)

NOTES:

1. Property Boundaries are approximate

ECOVUE consulting services inc. EcoVue Consulting Services Inc.
 311 George St. N., Suite 200
 Peterborough ON K9J 3H3
 Tel: 705-876-8340 Fax: 705-742-8343
 www.ecovueconsulting.com

DRAWN BY: TB	PROJECT No.: 21-2145
APPROVED BY:	HORIZ. SCALE: 1:150
REVISION DATE: JUNE 10, 2021	PLOT DATE: JUNE 10, 2021

TOM STREET SEVERANCE
 RON AND ROYA DIEBA
 70 & 72 TOM STREET
 PART OF LOT 19, CONCESSION 2
 GEOG. TWP. OF BARTON
 CITY OF HAMILTON



April 12, 2024

Planning and Economic Development Department
71 Main Street West, 4th Floor,
Hamilton, L8P 4Y5

Attn: Lauren Vraets, MCIP, RPP
Senior Planner - Long Range Planning

Re: **Application for Minor Variance**
70 and 72 Tom Street, City of Hamilton
EcoVue Reference: 21-2145

Dear Lauren,

The following is being submitted in support of an application for a Minor Variance at the above-noted property. The Minor Variance is related to a Consent application (File no. HM/B-22:73) that was conditionally approved on September 1, 2022 (**Appendix A**). As per Condition #6 of the Consent decision, a Minor Variance application is required to address several zoning deficiencies resulting from the conditionally approved severance. The deficiencies are associated with an existing semi-detached dwelling on the subject lands.

The purpose of the Minor Variance is to seek relief from various building and lot provisions listed under Sections 10 and 18 of the City of Hamilton Zoning By-law 6593 (CHZBL) as noted below:

1. To permit a reduced lot area of 117.5 square metres where the required minimum lot area is 360 square metres under Section 10.4 (i) of the CHZBL;
2. To permit a reduced lot frontage of 6.97 metres where the required minimum lot frontage is 12 metres under Section 10.4 (i) of the CHZBL;
3. To permit a reduced side yard setback of 0 metres when the required side front yard setback is 1.2 metres under Section 10.3 (ii) of the CHZBL;



4. To permit a reduced front yard landscaping of 0% where the required minimum front yard landscaping is 50% (excluding concrete, asphalt, gravel, pavers, or other similar materials) under Section 18.16.14 (i) of the CHZBL; and
5. To permit one (1) parking space per dwelling when the parking requirement per dwelling is two (2) spaces per dwelling under Section 18A(1)(a) of the CHZBL.

Please note that there are existing zoning deficiencies associated with the existing semi-detached dwelling on the property, including a deficient side yard setback, front yard setback and rear yard setback, as detailed in the previously submitted Planning Justification Report. However, according to By-law ZON-12 (**Appendix B**), legally established non-compliant setbacks to existing unaltered lot lines do not require a variance. This was later confirmed by the Zoning Examiner in their correspondence on June 9, 2023 (**Appendix C**).

2.0 APPLICATION FOR MINOR VARIANCE

Section 45 (1) of the *Planning Act* sets out “four tests” to be considered when submitting a Minor Variance application. The four tests are:

1. The application shall meet the general intent of the Official Plan;
2. The application shall meet the general intent of the Zoning By-law;
3. The requested variance is minor in nature; and
4. The requested variance is desirable for the appropriate development or use of the land, building or structure.

Below is a summary of the proposed Minor Variance in the context of the four tests listed above.

1.1 General Intent of the Official Plan (City of Hamilton Official Plan, 2021)

The City of Hamilton Official Plan is a single-tier Official Plan that is intended to provide direction and guidance on the management of communities, land use change and physical development over the next 30 years within the City of Hamilton. The subject lands are designated Neighbourhoods on



Schedule E-1 to the City of Hamilton Official Plan (CHOP). According to Section 2.7.2, it is stated that “*neighbourhoods shall primarily consist of residential uses and complementary facilities and services intended to serve the residents.*” Further, in Section 2.7.7, it is stated that “*Neighbourhoods shall generally be regarded as physically stable areas with each neighbourhood having a unique scale and character. Changes compatible with the existing character or function of the neighbourhood shall be permitted.*”

It should be noted that the intent of the consent application is to separate existing semi-detached dwellings at 70 and 72 Tom Street onto individual, conveyable parcels. As such, there were no physical changes or additions proposed as a part of the application. Additionally, the primary intent of the Minor Variance application is to recognize the existing non-compliant resulting from the division of land.

Furthermore, the existing dwellings are keeping with the surrounding uses both in the terms of scale and character and the proposed development will not result in any change to the neighbourhood character.

Given the above, the proposed minor variances meet the intent of the CHOP.

1.1.1 Strathcona Secondary Plan

Strathcona Secondary Plan is a Secondary Plan to the City of Hamilton Official Plan (CHOP) which provides detailed and community specific guidance to growth and change in the geographic area of Strathcona, Hamilton. Secondary plans identify more detailed land uses, densities, design requirements, and infrastructure requirements and other implementing actions appropriate for the community. These plans are intended to supplement the policy directions and land use designations found in the CHOP. The subject lands are within the Low Density Residential 3 Designation, according to Map B.6.6-1 of the Strathcona Land Use Plan.

Section 6.6.4 of the Strathcona Secondary Plan speaks to general policies and Section 6.6.4.1 (c) states that “[w]hen considering an application for development, the following matters shall be evaluated: i) *Compatibility with adjacent land uses including matters such as shadowing, grading, overlook, noise, lighting, traffic and other nuisance effects;* ii) *The consideration of transition in*



height to adjacent and existing residential development; and, iii) The height, massing, scale and arrangement of the buildings and structures are compatible with adjacent development and are sympathetic to the character and heritage of the neighbourhood.”

As noted, the proposed development will retain the existing semi-detached dwellings which are in keeping with the surrounding use and character of the neighbourhood and will not impact neighbouring uses.

Further in Section 6.6.5.3, it is stated that the residential density range shall within Low Density Residential 3 Designation shall be in between 20 – 60 units per net hectare and that the maximum building height shall be 2.5 storeys. The existing dwellings have a density of approximately 30 units per hectare will be maintained and are 1 storey in building height. As such, the proposed development conforms to Section 6.6.5.3 of the Strathcona Secondary Plan.

Given the above, the proposed minor variances meet the intent of the Strathcona Secondary Plan.

1.2 General Intent of the Zoning By-law (City of Hamilton Zoning By-law 6593)

The subject property is located in the Urban Protected Residential, One- and Two-Family Dwellings etc.) “D” District. As per section 10.1 (i), uses permitted in “C” District are permitted in the “D” District and as such, the existing single detached dwelling is a permitted use. Therefore, the proposed development conforms to the uses permitted within the “D” District.

The development conforms to all of the applicable lot provisions listed under the “D” District except the provisions discussed below, which are subject to the Minor Variance request:

1. To permit a reduced lot area of 117.5 square metres where the required minimum lot area is 360 square metres under Section 10.4 (i) of the CHZBL.

The required lot area within the “D” District is 360 square metres, while the proposed lot area for severed and retained lots are 125.0 square metres and 117.5 square metres respectively. Generally, lot area provisions are intended to ensure that built areas include sufficient space to accommodate the proposed building and their accessory structures while respecting the neighbouring boundaries. As noted herein, the proposed Consent and Minor Variance will not result



in any further development or alterations to the existing dwellings. The existing conditions provide sufficient space to accommodate the buildings without creating an impression of massing impact. Additionally, as the existing conditions will be maintained, no impacts to stormwater drainage are anticipated.

Although the proposed lot areas are approximately 60% smaller than the required lot area, there will be no change to the existing conditions of the site. Therefore, it is our opinion that the impact of the lot division will be minor in nature.

2. To permit a reduced lot frontage of 6.97 metres where the required minimum lot frontage is 12 metres under Section 10.4 (i) of the CHZBL;

The proposed lot frontages for the severed and the retained lots will be 6.97 metres and 7.78 metres respectively, which is approximately a 45% reduction from the required frontage requirement (12 metres) of the "D" District. Similar to lot areas, lot frontages are intended to ensure that the lots provide sufficient space to accommodate the proposed structures.

As noted, given that the proposal does not propose any future development, and that the subject property can adequately accommodate the existing structures, it is our opinion that the reduced lot frontage meets the intent of the CHZBL.

3. To permit a reduced side yard setback of 0 metres when the required side yard setback is 1.2 metres under Section 10.3 (ii) of the CHZBL;

The existing dwellings are semi-detached and as a result will have 0 metre side yard setback along a common wall, where the side yard setback requirement for the "D" district is 1.2 metres.

Although side yard setbacks are intended to adequately separate buildings, structures, neighbouring uses and to control massing, the "D" district provisions do not contemplate the side yard setbacks for a semi-detached dwelling with a shared common wall.

As noted, the existing structures will remain in their current state, and no future development is being proposed on both the lots. Additionally, Zoning By-law provisions of similar municipalities permit a side yard setback of 0 metres for row houses or semi-detached dwellings on adjacent lots.



Given the above, it is our opinion that the proposed variance meets the intent of the CHZBL.

4. To permit a reduced front yard landscaping of 0% where the required minimum front yard landscaping is 50% (excluding concrete, asphalt, gravel, pavers, or other similar materials) under Section 18.16.14 (i) of the CHZBL.

The proposed severed and retained lots do not have front yards as the existing buildings are abutting the front lot line. However, as per By-law ZON-12 (**Appendix B**), legally established non-compliant setbacks to existing unaltered lot lines do not require a variance.

However, By-law ZON-12 does not contemplate lack of front yard landscaping due to existing non-compliant front yard setbacks.

Given the above, it is our opinion that the proposed lots meet the intent of the front yard landscaping provision.

It should be noted that both the proposed lots meet the intent of the front yard landscaping provision as the lots contain landscaping elements including a tree and grass located in the front portion of the property (**Fig. 1**). However, due to the existing lot conditions, the front portion of the lots that contains landscaping, encroaches within the Tom Street Road allowance.

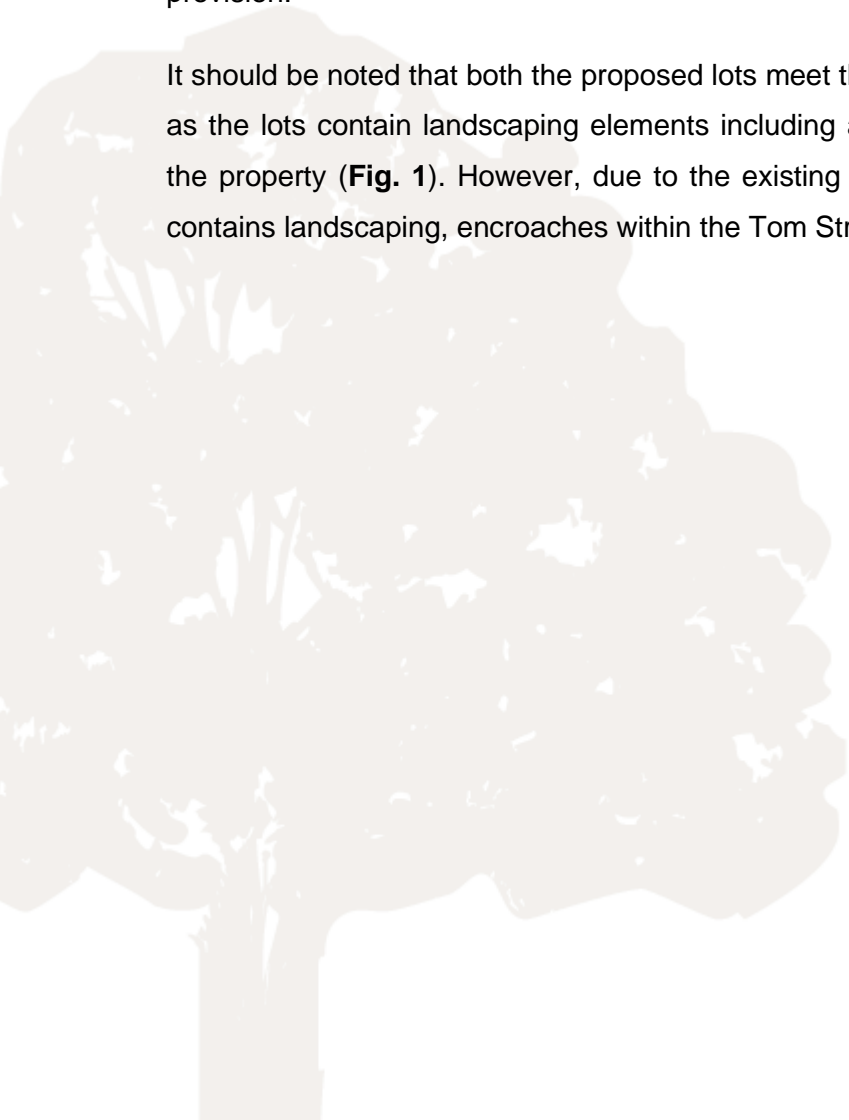




Figure 1: Existing Front Yard

5. To permit one (1) parking space per dwelling when the parking requirement per dwelling is two (2) spaces per dwelling under Section 18A(1)(a) of the CHZBL.

The subject properties currently do not have off-street parking and the proposed development will create one (1) driveway on each lot which will provide one (1) off-street parking space within each lot. It is our opinion that the proposed spaces provide a more suitable parking alternative than the existing requirement for on-street parking. Historically, zone provisions contemplate a higher number of parking spaces, which does not necessarily align with current planning practices. It is understood that residential intensification and reducing parking requirements are encouraged by various municipalities within the Province, including the City of Hamilton.



Given the above, it is our opinion that a reduced parking requirement meets the intent of the CHZBL.

1.3 The Requested Variance is Minor in Nature

It is our opinion that the proposed variances will not result in any adverse impacts to the surrounding uses or the overall streetscape as the current use and structures will remain the same. The proposed development will include a driveway on each lot which will further improve the parking options. Furthermore, the development will not have any impacts on neighbouring uses or the public realm. As such, it is our opinion that the proposed variances are minor in nature.

1.4 Desirable for the Appropriate Development or Use of the Land, Building or Structure

It is our opinion that the proposed development is desirable and appropriate for the existing residential area as the proposal:

1. Will not result in significant impacts and will comply with all other zoning requirements under the City of Hamilton Toronto Zoning By-law 6593;
2. Can be adequately serviced via available infrastructure;
3. Will not result in any changes to the character and design of the neighbourhood;
4. Directly aligns with requirements to accommodate various housing types and intensification on a provincial and regional level, as reflected in provincial planning legislation and policies (*Planning Act*, Provincial Policy Statement, Growth Plan for the Greater Golden Horseshoe);
5. Reflects the general intent of the City of Hamilton Official Plan policies to encourage providing a range of housing.

1.1 Consistency/Conformity with Provincial Plans

In addition to the “four tests” under Section 45(1) of the *Planning Act*, minor variances shall also be consistent with policy statements, and conform to provincial plans, issued under s.3 of the *Planning Act*.



1.1.1 Provincial Policy Statement

The 2020 Provincial Policy Statement (2020) provides a policy framework for land use planning within the Province of Ontario. It is the responsibility of the local planning authorities, in this case, the City of Toronto, to uphold the policies of the PPS pertaining to land use planning and development. In particular, the planning authorities must ensure that their decisions are consistent with key provincial interests including policies related to settlement areas in urban communities.

Section 1.1.3 of the PPS outlines policies as they relate to Settlement Areas. Section 1.1.3.1 states *“that settlement areas shall be the focus of growth and development”* and that *“land use patterns within settlement areas shall be based on densities and a mix of land uses which...efficiently use land and resources”*.

The proposed development will occur in a settlement area and represents an opportunity for intensification, thereby demonstrating efficient use of land.

In addition to Section 1.1.3, Section 1.4 of the PPS, which speaks to housing, also applies. Section 1.4.3 states that *“[p]lanning authorities shall provide for an appropriate range and mix of housing options and densities to meet projected market-based and affordable housing needs of current and future residents of the regional market area...”*

The proposed development does not provide additional housing options. However, it will retain the total number of residential dwellings in the area.

Therefore, the proposed minor variances are consistent with the applicable sections of the PPS.

1.1.2 A Place to Grow: Growth Plan for the Greater Golden Horseshoe

The City of Toronto is included within the area subject to the policies of A Place to Grow: Growth Plan for Greater Golden Horseshoe, 2020 (Growth Plan), prepared under the Places to Grow Act, 2005. The Growth Plan, administered by the Ministry of Municipal Affairs and the Ministry of Housing, is intended to guide decisions respecting transportation, infrastructure planning, land use planning, housing, natural heritage and resource protection. Although the PPS provides the overall



policy direction on matters of provincial interests, the Growth Plan prevails where there is a conflict, with only two exceptions: natural environment and human health.

Section 2.2.1.2 a) of the Growth Plan states that “*the vast majority of growth will be directed to settlement areas that have a delineated built boundary, have existing or planned municipal water or wastewater systems and can support the achievement of complete communities*”.

As noted, the subject property is located within a delineated built-up area, has sufficient municipal servicing and supports the achievement of complete communities.

Therefore, the proposed minor variances conform to the Growth Plan.

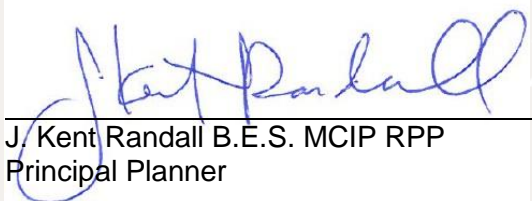
3.0 SUMMARY

It is our opinion that the proposed Minor Variances to Sections 10.4 (i), 10.4 (ii), 10.3 (ii), 18.16.14 (i) and 18A(1)(a) of the City of Hamilton Zoning By-law 6593, meet the four “tests” provided in Section 45(1) of the *Planning Act*. Based on the foregoing review of the relevant *Planning Act* and policy considerations, it is our opinion that the Minor Variances constitute good planning.

We trust this Letter-Report adequately addresses all applicable requirements under the *Planning Act* as it relates to the subject Minor Variance application. Should you have any questions or require any clarifications, please do not hesitate to contact the undersigned.

Respectfully submitted,

ECOVUE CONSULTING SERVICES INC.



J. Kent Randall B.E.S. MCIP RPP
Principal Planner





Aditya S.

Aditya Srinivas B.Sc.
Planner





APPENDIX A

Consent File no. HM/B-22:73





Hamilton

COMMITTEE OF ADJUSTMENT

City Hall, 5th floor, 71 Main Street West, Hamilton, ON L8P 4Y5

Telephone (905) 546-2424, ext. 4221, 3935

E-mail: cofa@hamilton.ca

September 22, 2022

ECOVUE CONSULTING SERVICES INC.
ASHLYN KENNEDY
311 GEORGE ST N SUITE 200
PETERBOROUGH ON K9J 3H3

RE: Application No. HM/B-22:73
Address: 70-72 TOM STREET, HAMILTON

Pursuant to Section 53(21) of The Planning Act, 1990, notice is herewith given that the period of appeal provided for in Section 53(19) of the said Act has expired and no such appeal has been filed.

Therefore, in accordance with Section 53(21), the Decision of the Committee of Adjustment, together with any conditions, is now final.

Notice is also given, that pursuant to Section 53(41) of the Planning Act, where the applicant has not complied with the conditions of consent within **TWO** years from the date of giving of the Notice of Decision, the application for consent shall be deemed to be **REFUSED**.

Please be advised that it is the applicant's responsibility to ensure all conditions of consent have been satisfied within the above noted time frame by contacting the various agencies and/or departments who have requested conditions.

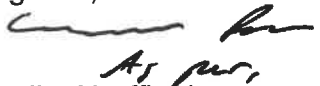
Common Contacts

Building: building@hamilton.ca Development Planning: pd.generalinquiry@hamilton.ca
Zoning: zoninginquiry@hamilton.ca Transportation Planning: tplanning@hamilton.ca
Development Engineering Approvals: devengapprovals@hamilton.ca

Upon fulfillment of the conditions noted on the Decision, an electronic copy or three (3) physical copies of the deed, mortgage or other document of transaction, must be submitted for endorsement of the Certificate of Consent, one copy of which will be retained in this office for record purposes.

Please note there is a fee (\$230, 2022 rate) for this service and is payable at the time the documents are submitted. Allow a minimum of two (2) business days for our examination and endorsement of these documents.

Regards,


As per,
Jamila Sheffield
Secretary-Treasurer
Committee of Adjustment



APPENDIX B

By-Law ZON-12 (Under
Separate Cover





APPENDIX C

Correspondence



Ashlyn Kennedy

From: Cuming, Sebastian <Sebastian.Cuming@hamilton.ca>
Sent: June 9, 2023 3:26 PM
To: Aditya Srinivas
Cc: Ashlyn Kennedy
Subject: RE: Zoning Compliance Review - 70-72 Tom St - Delay
Attachments: ZON-012 Land Severance – Legally Established Non-Conforming Uses & Legally Established Non-Complying Performance Standards.pdf

Good afternoon,

Thank you for your patience. I've begun reviewing and note that zoning relief has not yet been obtained for zoning deficiencies so clearance of the conditions will not be possible yet.

I see in the Planning Justification Report that a rezoning was contemplated. Has Development Planning been engaged yet for any opinion as to whether the zoning deficiencies should be addressed through Minor Variances or through a rezoning? If not, this is what I would recommend as a next step. Typically, zoning relief for standards associated with a low density residential severance would be directed through a Minor Variance process, but Development Planning may encourage a rezoning based on the scale of necessary zoning relief (eg. for lot area).

In terms of process, both the rezoning and Minor Variance processes include the provision of a zoning review to confirm necessary relief. This zoning review will require a site plan of the proposed conditions. For example, the submission notes intention to provide hard surface in the front yard, which may trigger a front yard landscaping variance, and this would not be shown in a survey of existing conditions.

In discussions with Development Planning, and as part of your own project planning, I would also note the severance approval will lapse on September 1, 2024. So if all consent conditions are not cleared by then, a new consent approval will also be required. If greater clarity around this is required, I recommend consulting with Committee of Adjustment staff.

For the necessary zoning relief, legally established non-compliant setbacks to existing unaltered lot lines do not require a variance or relief through rezoning as per Divisional policy. I have attached the relevant policy. Lot area and lot frontage shall definitely require relief, as well as 0 m setback to the new lot line, unless the requirement of Section 6(4) of By-law 6593 is met.

I hope this information assists. As noted above, I recommend contacting Development Planning as a next step in preparation for a Minor Variance or rezoning submission.

This zoning compliance review application will remain open until such time that the conditions can be cleared.

Feel free to follow up with me for any further assistance or clarification.

Thank you,

Sebastian Cuming

Zoning Examiner
Planning and Economic Development
Planning Division, City of Hamilton
(905) 546-2424 Ext.3904

From: Aditya Srinivas <asrinivas@ecovueconsulting.com>
Sent: Wednesday, June 7, 2023 8:34 AM
To: Cuming, Sebastian <Sebastian.Cuming@hamilton.ca>
Cc: Ashlyn Kennedy <akennedy@ecovueconsulting.com>
Subject: RE: Zoning Compliance Review - 70-72 Tom St - Delay

Thanks for the update, Sebastian.

Regards,

Aditya Srinivas, B.Sc. (he/him)
Planner



EcoVue Consulting Services Inc.
311 George Street North
Suite 200
Peterborough, Ontario K9J3H3
705.876.8340 bus
705.742.8343 fax
877.652.1466 toll free
www.ecovueconsulting.com

From: Cuming, Sebastian <Sebastian.Cuming@hamilton.ca>
Sent: Tuesday, June 6, 2023 4:59 PM
To: Aditya Srinivas <asrinivas@ecovueconsulting.com>
Cc: Ashlyn Kennedy <akennedy@ecovueconsulting.com>
Subject: Zoning Compliance Review - 70-72 Tom St - Delay

Good afternoon,

I'm the examiner assigned to review of the above-noted application. Although it is due to be completed today, I have not been able to meet this deadline due to competing priorities. Apologies for this delay.

I expect to complete no later than Friday of this week. Please feel free to follow up with me for assistance or update in the meantime.

Thank you,

Sebastian Cuming
Zoning Examiner
Planning and Economic Development
Planning Division, City of Hamilton



Hamilton

Committee of Adjustment

City Hall, 5th Floor,
71 Main St. W.,
Hamilton, ON L8P4Y5

Phone: (905) 546-2424 ext. 4221

Email: cofa@hamilton.ca

**APPLICATION FOR A MINOR VARIANCE/PERMISSION
UNDER SECTION 45 OF THE PLANNING ACT**

1. APPLICANT INFORMATION

	NAME	MAILING ADDRESS	
Registered Owners(s)	Roya Dieba	[REDACTED]	Phone: [REDACTED]
			E-mail: [REDACTED]
Applicant(s)	EcoVue Consulting Services	[REDACTED] Peterborough, ON	Phone: [REDACTED]
			E-mail: [REDACTED]
Agent or Solicitor			Phone: [REDACTED]
			E-mail: [REDACTED]

1.2 All correspondence should be sent to Purchaser Owner
 Applicant Agent/Solicitor

1.3 Sign should be sent to Purchaser Owner
 Applicant AgentSolicitor

1.4 Request for digital copy of sign Yes* No

If YES, provide email address where sign is to be sent [REDACTED]

1.5 All correspondence may be sent by email Yes* No

If Yes, a valid email must be included for the registered owner(s) AND the Applicant/Agent (if applicable). Only one email address submitted will result in the voiding of this service. This request does not guarantee all correspondence will sent by email.

2. LOCATION OF SUBJECT LAND

2.1 Complete the applicable sections:

Municipal Address	70 & 72 Tom Street, Hamilton, ON		
Assessment Roll Number			
Former Municipality	Barton		
Lot	19	Concession	2
Registered Plan Number		Lot(s)	
Reference Plan Number (s)		Part(s)	

2.2 Are there any easements or restrictive covenants affecting the subject land?

Yes No

If YES, describe the easement or covenant and its effect:

3. PURPOSE OF THE APPLICATION

Additional sheets can be submitted if there is not sufficient room to answer the following questions. Additional sheets must be clearly labelled

All dimensions in the application form are to be provided in metric units (millimetres, metres, hectares, etc.)

3.1 Nature and extent of relief applied for:

1. To permit a reduced lot area of 117.5 square metres where the required minimum lot area is 360 square metres under Section 10.4 (i) of the CHZBL;
2. To permit a reduced lot frontage of 6.97 metres where the required minimum lot frontage is 12 metres under Section 10.4 (i) of the CHZBL;
3. To permit a reduced side yard setback of 0 metres when the required side front yard setback is 1.2 metres under Section 10.3 (ii) of the CHZBL;
4. To permit a reduced front yard landscaping of 0% where the required minimum front yard landscaping is 50% (excluding concrete, asphalt, gravel, pavers, or other similar materials) under Section 18.16.14 (i) of the CHZBL; and
5. To permit one (1) parking space per dwelling when the parking requirement per dwelling is two (2) spaces per dwelling under Section 18A(1)(a) of the CHZBL.

Second Dwelling Unit

Reconstruction of Existing Dwelling

3.2 Why it is not possible to comply with the provisions of the By-law?

Please refer Planning Justification Report

3.3 Is this an application 45(2) of the Planning Act.

Yes

No

If yes, please provide an explanation:

4. DESCRIPTION OF SUBJECT LAND AND SERVICING INFORMATION

4.1 Dimensions of Subject Lands:

Lot Frontage	Lot Depth	Lot Area	Width of Street
6.97 m/ 7.78 m	15.85 m/ 17.33 m	125 sq.m/117 sq.m	20 m

4.2 Location of all buildings and structures on or proposed for the subject lands:
(Specify distance from side, rear and front lot lines)

Existing:

Type of Structure	Front Yard Setback	Rear Yard Setback	Side Yard Setbacks	Date of Construction
Dwelling	0m/0.5m	3.38m/3.38m	0.21m & 0m/0.64m & 0m	
Dwelling				

Proposed:

Type of Structure	Front Yard Setback	Rear Yard Setback	Side Yard Setbacks	Date of Construction
N/A				

4.3. Particulars of all buildings and structures on or proposed for the subject lands (attach additional sheets if necessary):

Existing:

Type of Structure	Ground Floor Area	Gross Floor Area	Number of Storeys	Height
Dwelling	+/-77.65	+/-77.65	1	1 storey
Dwelling	+/-64.10	+/-64.10	1	1 storey

Proposed:

Type of Structure	Ground Floor Area	Gross Floor Area	Number of Storeys	Height

- 4.4 Type of water supply: (check appropriate box)
 publicly owned and operated piped water system
 privately owned and operated individual well

- lake or other water body
 other means (specify)

- 4.5 Type of storm drainage: (check appropriate boxes)
 publicly owned and operated storm sewers
 swales

- ditches
 other means (specify)

4.6 Type of sewage disposal proposed: (check appropriate box)

publicly owned and operated sanitary sewage

system privately owned and operated individual

septic system other means (specify) _____

4.7 Type of access: (check appropriate box)

provincial highway

right of way

municipal road, seasonally maintained

other public road

municipal road, maintained all year _____

4.8 Proposed use(s) of the subject property (single detached dwelling duplex, retail, factory etc.):
remain residential

4.9 Existing uses of abutting properties (single detached dwelling duplex, retail, factory etc.):
residential- single detached dwellings

7 HISTORY OF THE SUBJECT LAND

7.1 Date of acquisition of subject lands:

2021

7.2 Previous use(s) of the subject property: (single detached dwelling duplex, retail, factory etc)
residential

7.3 Existing use(s) of the subject property: (single detached dwelling duplex, retail, factory etc)
residential

7.4 Length of time the existing uses of the subject property have continued:
since conception

7.5 What is the existing official plan designation of the subject land?

Rural Hamilton Official Plan designation (if applicable): _____

Rural Settlement Area: _____

Urban Hamilton Official Plan designation (if applicable) Neighbourhoods

Please provide an explanation of how the application conforms with the Official Plan.

Please refer to previous Planning Justification Report

7.6 What is the existing zoning of the subject land? " D" District

7.8 Has the owner previously applied for relief in respect of the subject property?
(Zoning By-law Amendment or Minor Variance)

Yes

No

If yes, please provide the file number: " D" District

7.9 Is the subject property the subject of a current application for consent under Section 53 of the *Planning Act*?

Yes

No

If yes, please provide the file number: File No. HM/B-22:73 (Previously approved)

7.10 If a site-specific Zoning By-law Amendment has been received for the subject property, has the two-year anniversary of the by-law being passed expired?

Yes

No

7.11 If the answer is no, the decision of Council, or Director of Planning and Chief Planner that the application for Minor Variance is allowed must be included. Failure to do so may result in an application not being “received” for processing.

8 ADDITIONAL INFORMATION

8.1 Number of Dwelling Units Existing: 2

8.2 Number of Dwelling Units Proposed: _____

8.3 Additional Information (please include separate sheet if needed):

Existing use- 1 unit per lot.

11 COMPLETE APPLICATION REQUIREMENTS

11.1 All Applications

- Application Fee
- Site Sketch
- Complete Application form
- Signatures Sheet

11.4 Other Information Deemed Necessary

- Cover Letter/Planning Justification Report
 - Authorization from Council or Director of Planning and Chief Planner to submit application for Minor Variance
 - Minimum Distance Separation Formulae (data sheet available upon request)
 - Hydrogeological Assessment
 - Septic Assessment
 - Archeological Assessment
 - Noise Study
 - Parking Study
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