



Hamilton

**STAFF COMMENTS**

**HEARING DATE: July 2, 2024**

**A-24:69 – 86 Lister Avenue, Hamilton**

Recommendation:

Development Planning - 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).”



Hamilton

**STAFF COMMENTS**

**HEARING DATE: July 2, 2024**

Development Planning:

### **Background**

The application is to facilitate the construction of a proposed accessory building.

The subject lands are being brought into the Comprehensive City of Hamilton Zoning By-law No. 05-200; the following variances are requested:

Former Hamilton Zoning By-law 6593;

1. A maximum accessory building height of 7.9m shall be permitted instead of the maximum 4.0m accessory building height permitted.

Hamilton Zoning By-law 05-200;

1. The aggregate gross floor area of all accessory buildings shall not exceed 185.89m<sup>2</sup> instead of the aggregate Gross Floor Area of all Accessory Buildings shall not exceed 45 square metres or 7.5%total lot coverage, whichever is the lesser permitted.
2. An accessory building height of 7.9m shall be permitted instead of the maximum 4.5m accessory building height permitted.

Staff notes that the application was tabled at the May 7<sup>th</sup>, 2024, Committee of Adjustment Hearing.

Archaeology:

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 Planning Act and Section 2.6.2 of the Provincial Policy Statement apply to the subject application.

If this variance is granted, the proponent must be advised in writing by the Committee of Adjustment as follows:

“Acknowledgement Note: The subject property has been determined to be an area of archaeological potential. It is reasonable to expect that archaeological resources may be encountered during any demolition, grading, construction activities, landscaping, staging, stockpiling or other soil disturbances. If archaeological resources are encountered, the proponent may be required to 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



## Hamilton

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).”

### Urban Hamilton Official Plan

The subject lands are identified as “Neighbourhoods” on Schedule E – Urban Structure and designated “Neighbourhoods” on Schedule E-1 – Urban Land Use Designations in the Urban Hamilton Official Plan.

### Former City of Hamilton Zoning By-law No. 6593

The subject lands are zoned Suburban Agriculture and Residential, etc. “B” District, which permits a single detached dwellings and accessory structures.

## **Analysis**

### Variance 1 and 2

The applicant is proposing a maximum accessory building height of 7.9m be permitted instead of the maximum 4.0m accessory building height permitted within the Former City of Hamilton Zoning By-law No. 6593 and the maximum 4.5m accessory building height permitted within the City of Hamilton Zoning By-law No. 05-200.

The applicant is also proposing the aggregate GFA of all accessory buildings shall not exceed 185.89m<sup>2</sup> instead of the aggregate GFA of all accessory buildings shall not exceed 45 square metres or 7.5% total lot coverage, whichever is the lesser permitted.

It should be noted that the drawings submitted show a building height of approximately 7.925 m. The existing single detached dwelling is a one storey dwelling with a height of only approximately 4.8m. The proposed accessory structure will be 3.1m taller than the existing house and is a two-storey building. The proposed accessory structure will have a gross floor area of approximately 185.89 m<sup>2</sup>, while the existing dwelling has a gross floor area of 132.39 m<sup>2</sup>. When the height and area of the proposed accessory structure are considered jointly, staff are of the opinion that the proposed accessory structure will no longer be subordinate to the primary dwelling on the lands, whereas it is the intent of the Zoning By-laws that an accessory structure be subordinate to the primary dwelling.



# Hamilton

Furthermore, the inclusion of windows on the second floor presents opportunities for overlook onto the amenity areas of the neighboring properties to the south and west.

Based on the foregoing, the requested variances do not maintain the general intent and purpose of the Urban Hamilton Official Plan and the Former City of Hamilton Zoning By-law No. 6593. The variances are not minor in nature, nor are they desirable for the appropriate use of the property.

**Zoning:**

Recommendation:	Comments Only
Proposed Conditions:	
Comments:	<ol style="list-style-type: none"> <li>1. Requested variances are required to facilitate the constructions of a proposed accessory building.</li> <li>2. It is noted, as per Zoning By-Law Amendment 24-051, the property has been amended from the previous B Zone under Hamilton 6593 to the R2 Zone under Hamilton Zoning By-Law 05-200. Please note however that the property remains subject to both the requirements under Hamilton Zoning By-law 6593 and Zoning By-Law 05-200 until such time that Zoning By-Law Amendment 24-051 has been deemed Final and Binding.</li> </ol>
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</p>



Hamilton

	<p>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> <p>Cultural Heritage:</p> <p>No comments.</p>
Proposed Notes:	<p>If this variance is granted, the proponent <b>must be advised in writing</b> by the Committee of Adjustment as follows:</p> <p><b>“Acknowledgement Note:</b> 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 (<a href="tel:416-212-0036">416-212-0036</a>) 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>

Development Engineering:

Recommendation:	No Comments
Proposed Conditions:	N/A



Hamilton

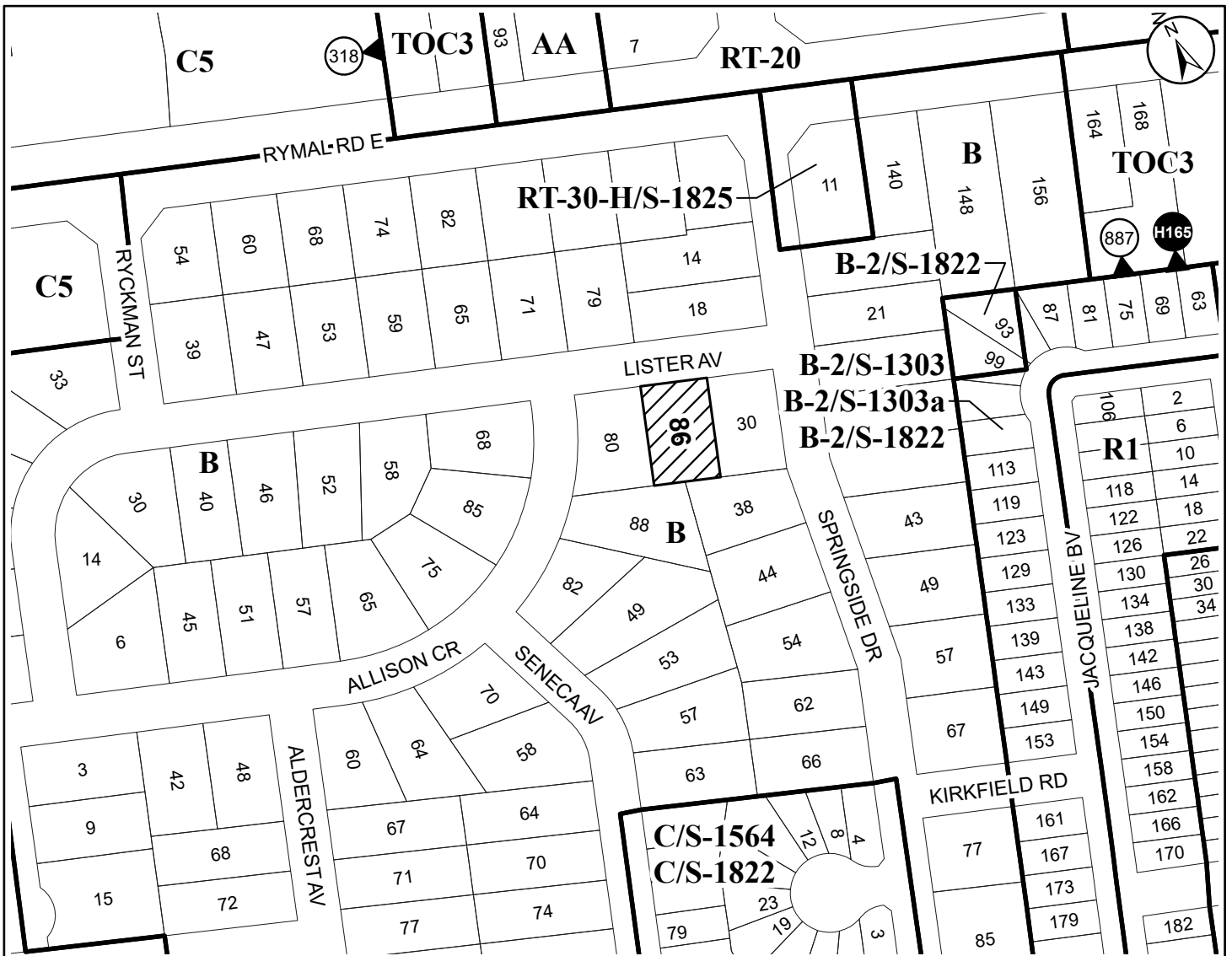
Comments:	
Proposed Notes:	

Building Engineering:

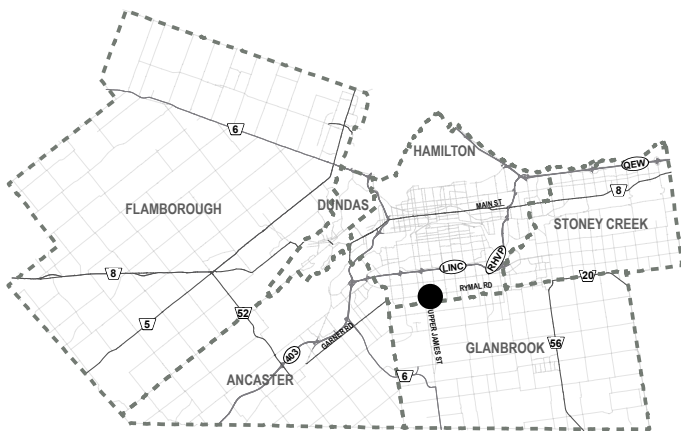
Recommendation:	Comments Only
Proposed Conditions:	
Comments:	
Proposed Notes:	A building permit is required for the construction of the proposed accessory building. Be advised that Ontario Building Code regulations may require specific setback and construction types.

Transportation Planning:

Recommendation:	No Comments
Proposed Conditions:	
Comments:	
Proposed Notes:	



● Site Location



**City of Hamilton**

# Committee of Adjustments

**Subject Property**



86 Lister Avenue, Hamilton  
(Ward 8)

**File Name/Number:**

A-24:69

**Date:**

June 14, 2024

**Technician:**

SH

**Scale:**

N.T.S.

**Appendix "A"**



**Hamilton**