



Hamilton

**STAFF COMMENTS**

**HEARING DATE: July 23, 2024**

HM/A-24:42 – 9 Westbourne Road, Hamilton

**Recommendation:**

Development Planning - Deny

**Proposed Conditions:**

1. The owner shall provide a Stormwater Management Brief (SWM) prepared by a qualified professional to demonstrate that the increased runoff due to the proposed intensification is controlled on-site to the allowable discharge rate the existing combined sewer has been designed for to the satisfaction of the Manager of Development Engineering.
2. That the owner submits a security deposit for the proposed SWM features on the site to the City, based on their Engineer estimate, that cannot be released until the Engineer certifies the works, all to the satisfaction of the Manager of Development Engineering.

**Proposed Notes:**

N/A



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## **Development Planning:**

### **Background**

To facilitate the addition of 4 bedrooms to an existing additional dwelling unit – detached.

Staff note that the current site specific zoning on the subject lands was approved through Zoning By-law Amendment application ZAS-20-003. Report PED21039 was heard at the Planning Committee meeting held on February 16, 2021 and Council approved the amendment on February 24, 2021 through By-law No. 21-020. By-law No. 21-020 changed the zoning of the subject lands from “C/S-1335, C/S-1335a, C/S-1788” (Urban Protected Residential, Etc.) District, Modified to “C/S-1335, C/S-1335a, C/S-1804” (Urban Protected Residential, Etc.) District, Modified. The intent of the zoning amendment and staff report are discussed in more detail below.

### **Analysis**

#### **Urban Hamilton Official Plan**

The subject lands are identified as “Neighbourhoods” in Schedule E – Urban Structure and are designated as “Neighbourhoods” in Schedule E-1 – Urban Land Use Designations of the Urban Hamilton Official Plan. Policy E.3.2.3, amongst others, is applicable and permits the existing single detached dwelling and proposed secondary dwelling unit. The subject lands are located within the Ainslie Wood Westdale Secondary Plan and are also subject to the policies of the Secondary Plan.

#### **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. Policies 6.2.5.3 and 6.2.5.4, amongst others, are applicable and permit the existing single detached dwelling and accessory dwelling unit – detached. Staff note that when Zoning By-law Amendment application ZAS-20-003 was assessed, staff were of the opinion that the proposed secondary dwelling met the intent of the Secondary Plan as a single storey structure that existed during the review of the Zoning By-law Amendment was intended to be converted into the additional dwelling. It was determined that the scale and massing of the previous building met the intent of the policies.

#### **Ainslie Wood North Neighbourhood Plan**

The subject lands are identified as “Single and Double” on Map 6907 of the Ainslie Wood North Neighbourhood Plan. Low density residential built forms are consistent with the intent of the Neighbourhood Plan.



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### **Archaeology**

Staff comments addressed as part of ZAS-20-003.

### **Cultural Heritage**

Staff comments addressed as part of ZAS-20-003.

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

The subject lands are zoned “C/S-1335, C/S-1335a, C/S-1804” (Urban Protected Residential) District, Modified in Former City of Hamilton Zoning By-law No. 6953. The existing single detached dwelling and additional dwelling unit - detached are permitted uses.

### **Zoning By-law Amendment Application ZAS-20-003**

In staff report PED21039 regarding Zoning By-law Amendment application ZAS-20-003, it is noted the proposed development was the conversion of the existing one storey detached garage on the subject lands into an additional dwelling unit – detached and a 53 square metre addition to the structure for a total area of 88.7 square metres. Staff note that the existing additional dwelling unit – detached is two storeys or 7.92 metres in height whereas the existing primary dwelling is 6 metres in height.

The original detached garage’s existing setbacks to the northerly side lot line and rear lot line were recognized as part of the application, being 0.7 metres and 0.8 metres respectively, instead of the required 1.2 metre and 7.5 metre setback requirements. These provisions were supported by staff as the proposed additional dwelling unit was one storey in height and the existing as well as proposed windows along the northern façade of the structure would not be higher than an existing solid board fence along the northern side lot line. Additionally, no new windows were proposed facing the rear lot line. Staff supported these modifications as concerns regarding privacy and overlook were mitigated by visual barriers and the proposed height of the structure.

A total gross floor area of 89 square metres was supported by staff as restricting the gross floor area to 89 square metres ensured that the additional dwelling unit remained accessory to the principle dwelling and would not negatively impact adjacent properties.

### **Variance 1**

1. Notwithstanding Section 4(3)(a) and in addition to Section 9(1), a maximum 124.0 square metre building containing a second dwelling unit and shed shall be permitted on the same lot as a single family dwelling instead of notwithstanding Section 4(3)(a) and in addition to Section



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9 (1), a maximum 89.0 square metre building containing a second dwelling unit and shed shall be permitted on the same lot as a single detached dwelling.

The intent of these provisions is to ensure that secondary dwelling units – detached remain subordinate in scale and function to the existing primary dwelling.

Staff note that, based upon additional information provided by the applicant, the gross floor area of the primary dwelling (including the basement) is approximately 201 square metres. However, the proposed development as part of Zoning By-law Amendment application ZAS-20-003 did not contemplate a second storey nor an inhabited second storey within the proposed additional dwelling unit – detached. Staff are of the opinion that the requested variance and proposed second floor renovations of the additional dwelling unit – detached do not maintain the intent of the current zoning on the subject property. As discussed in staff report PED21039, the original proposal envisioned a one storey structure limited to 89 square metres of gross floor area. Staff further note that, as shown on the additional floor plans provided with this revised application, additional windows are proposed on the second floor facing the rear lot line, to the west. Staff have concerns this could potential privacy or overlook impacts on neighbouring properties.

The requested variance to increase the permitted gross floor area of the additional dwelling unit is to facilitate four additional habitable rooms within the additional dwelling unit – detached. Staff note that while By-law No. 21-020 included a provision requiring only one parking space for the additional dwelling unit, the original proposal only contemplated four habitable rooms. Staff are concerned additional inhabitants beyond the scope of the original proposal could have negative impacts in terms of parking overflow on the surrounding area.

Based on the above, Staff are of the opinion that the requested variance to permit increased gross floor area within the additional dwelling unit – detached does not maintain the intent of the Zoning By-law or the site specific modifications in place and is not minor in nature. Staff do not support the variance.

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

### Zoning:

Recommendation:	Comments Only
Proposed Conditions:	
Comments:	Requested variance is required to facilitate the expansion of an existing secondary dwelling unit detached



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Notes:	
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**Development Engineering:**

Recommendation:	Approve with Conditions
Proposed Conditions:	3. The owner shall provide a Stormwater Management Brief (SWM) prepared by a qualified professional to demonstrate that the increased runoff due to the proposed intensification is controlled on-site to the allowable discharge rate the existing combined sewer has been designed for to the satisfaction of the Manager of Development Engineering. That the owner submits a security deposit for the proposed SWM features on the site to the City, based on their Engineer estimate, that cannot be released until the Engineer certifies the works, all to the satisfaction of the Manager of Development Engineering.
Comments:	The property is located within the area serviced by a combined sewer system that has limited capacity
Notes:	

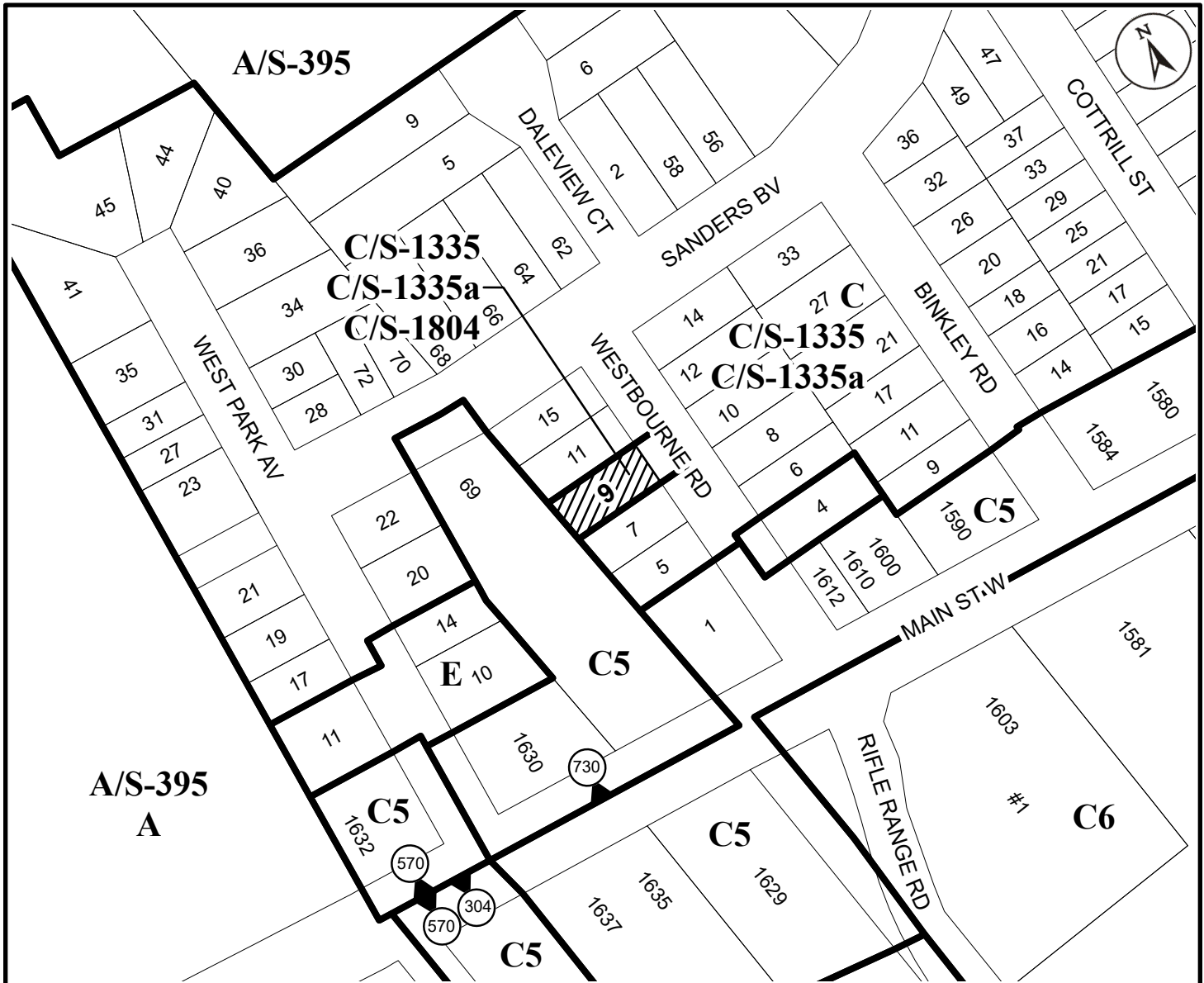
**Building Engineering:**

Recommendation:	Comments Only
Proposed Conditions:	
Comments:	
Notes:	Building Permit # 21-138434, issued on October 2, 2023, to construct a 1-storey, 55.44m <sup>2</sup> addition to the south side of existing accessory building and convert the existing 1-storey, 33.56m <sup>2</sup> , accessory building in the rear yard of the existing single-family dwelling to a detached secondary dwelling unit for a total area of 89m <sup>2</sup> , remains not finalized.  A building permit is required for the addition of the proposed 4 bedrooms to an existing detached dwelling unit.

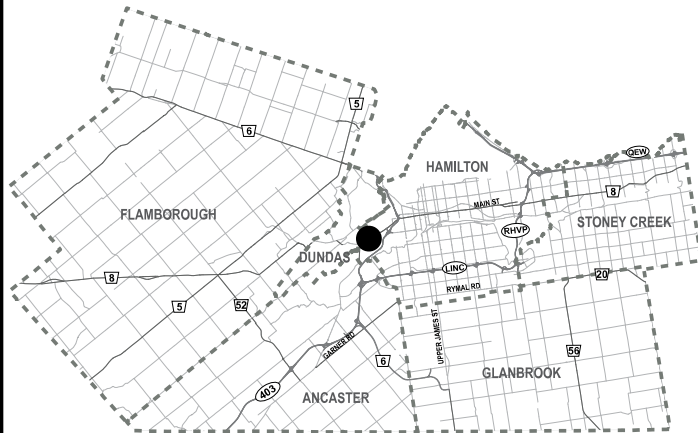
**Transportation Planning:**

Recommendation:	Approve
Proposed Conditions:	
Comments:	
Notes:	

Please Note: Public comment will be posted separately, if applicable.



● Site Location



**City of Hamilton**

## Committee of Adjustment

### Subject Property



9 Westbourne Road, Hamilton  
(Ward 1)

File Name/Number:

HM/A-24:42

Date:

July 8, 2024

Technician:

AL

Map Not To Scale

Appendix "A"



Hamilton

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT