



Hamilton

**STAFF COMMENTS**

**HEARING DATE: September 10, 2024**

**A.24.122 (17 Percy Crt., Hamilton)**

**Recommendation:**

Development Planning – Approve Variance 1 with Conditions, Deny Variance 2

**Proposed Conditions:**

1. That the relief granted under Minor Variance Decision A-24:122 apply only to development generally consistent with the plans titled Ground Level Site Plan and Second Level Site Plan (SK2 and SK3), dated July 15th, 2024, prepared by Sarah Brown Home Design Inc.

**Proposed Notes:**



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**Development Planning:**

**Background**

The application is to permit an addition to an existing detached garage which is to be converted to contain an Additional Dwelling Unit – Detached on a lot containing a single detached dwelling. This application was tabled at the July 2<sup>nd</sup>, 2024, Committee of Adjustment Meeting. The applicant has made modification to the proposal to address staff feedback.

The following variances are requested:

1. Where an Additional Dwelling Unit – Detached is in an Interior Side Yard, a minimum distance of 0.90 metres shall be provided between the side wall of the principle dwelling and the Additional Dwelling Unit – Detached, instead of the minimum 4.0 metres required;
2. No electric vehicle parking spaces shall be provided, instead of the requirement that for a Single Detached Dwelling, 100% of all parking spaces shall be provided as electric vehicle parking spaces [as per Section 5.7.4(a) of amending By-law No. 24-052 – not final and binding]

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.

City of Hamilton Zoning By-law No. 05-200

The subject lands are zoned Low Density Residential “R1” District, which permits a single detached dwellings and an Additional Dwelling Unit – Detached.

**Analysis**

Variance 1

The applicant is proposing a detached additional dwelling unit within the interior side yard with a minimum distance of 0.90m between the side wall of the principle dwelling and the detached additional dwelling unit (ADU), instead of the minimum 4.0m required between the principal dwelling and the detached additional dwelling unit. The intent of this provision is to allow for sufficient space between the dwelling units to mitigate any noise or privacy concerns, to ensure the primary dwelling is the dominate structure on the subject lands and to ensure sufficient space for safe access around the additional dwelling unit for residents or any emergency personnel.

Previous iterations of the plan had the proposed ground floor of the ADU being moved closer to the street and extending the existing 0.9m side yard for nearly the entire length of the existing dwelling,



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exacerbating the existing situation, while also bringing the ADU closer to the street. This would have the further impact of increasing the dominance of the ADU along the streetscape. The applicant has modified the plans so that the ADU extends to the rear of the existing detached garage on the ground floor as opposed to extending towards the street. The result is that the proposed variance simply recognizes the existing 0.91m setback between the detached garage and the dwelling.

Staff have reviewed the proposal and find that there is appropriate access being provided on the eastern side of the dwelling, where a ±1.38m setback exists. Furthermore, it is staff’s opinion that there will be no privacy and overlook concerns created between the proposed ADU and the existing single detached dwellings as there are no windows proposed along the western façade facing the existing dwelling. Staff have included a condition that the proposed ADU generally adhere to the submitted plans to ensure a window is not introduced through the Building Permit process. Furthermore, given to location of ADU being on the second storey of the existing garage where it abuts the dwelling, and no window being present on the façade facing the dwelling, staff do not anticipate any adverse noise impacts. The proposed variance being sought simply recognizes the existing setback and allows the proponent to place a second storey on the detached garage for an ADU.

Staff are of the opinion that the proposed variance is desirable for the appropriate development of the lands as it allows the use of the existing garage, it is in keeping with the intent of the zoning by-law and official plan, and is minor in nature.

## Variance 2

The applicant has requested that no electric vehicle parking spaces shall be provided, instead of the requirement that for a Single Detached Dwelling, 100% of all parking spaces shall be provided as electric vehicle parking spaces. The intent of the provision is to provide the necessary components to ensure it is ready for an electric vehicle to charge in the future if needed. It is staff’s opinion that the subject variance does not meet the intent of Hamilton Zoning By-law No. 05-200, nor is it minor in nature. Staff do not support the variance.

Based on the foregoing, staff recommend **approval of Variance 1** and **denial of Variance 2** as it does not maintain the general intent and purpose of the City of Hamilton Zoning By-law No. 05-200.

## Zoning:

Recommendation:	Comments Only
Proposed Conditions:	
Comments:	i. Please note that building height does not appear to be indicated as per the definition of “Building Height” provided in Hamilton Zoning By-law No. 05-200. Note that a maximum height of 6.0 metres shall be permitted, and additional variances may be required if compliance cannot be achieved.



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	ii. Please note that on a lot containing a Single Detached Dwelling, for a dwelling with an attached garage, the finished floor level of the garage shall be a minimum 0.3 metres above grade. Insufficient information has been provided to confirm compliance, and additional variances may be required if compliance cannot be achieved.
Notes:	

**Development Engineering:**

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

**Building Engineering:**

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

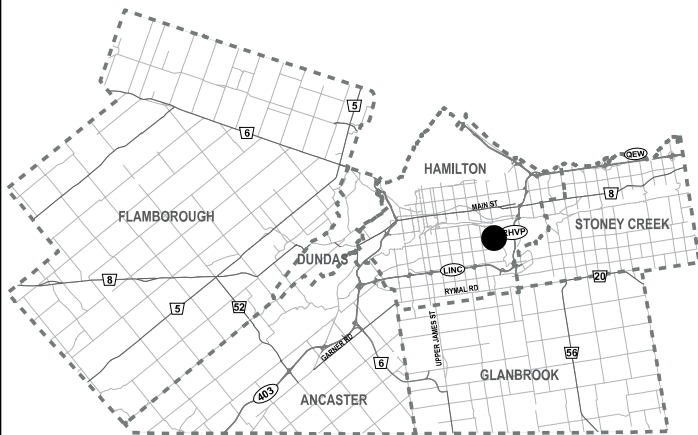
**Transportation Planning:**

Recommendation:	Comments Only
Proposed Conditions:	
Comments:	The Applicant may be required to put in the electric vehicle parking space if the by-law comes into effect.
Notes:	

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



● Site Location



**City of Hamilton**

**Committee of Adjustment**

**Subject Property**



17 Percy Court, Hamilton (Ward 6)

**File Name/Number:**  
A-24:122

**Date:**  
August 26, 2024

**Technician:**  
AL

Map Not To Scale

**Appendix "A"**



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