



Hamilton

**COMMITTEE OF ADJUSTMENT**

City Hall, 5<sup>th</sup> floor, 71 Main Street West, Hamilton, ON L8P 4Y5

Telephone (905) 546-2424, ext. 4221

E-mail: [cofa@hamilton.ca](mailto:cofa@hamilton.ca)

**NOTICE OF DECISION**  
**Consent/Land Severance**

<b>APPLICATION NO.:</b>	<b>B-24:44</b>	<b>SUBJECT PROPERTY:</b>	290 Dewitt Road, Stoney Creek
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**APPLICANTS:** Owner: Rajesh Kumar Garcha

**PURPOSE & EFFECT:** To permit the conveyance of a parcel of land to create a new residential building lot. The existing dwelling will be demolished to facilitate this application.

	<b>Frontage</b>	<b>Depth</b>	<b>Area</b>
<b>SEVERED LANDS:</b>	10.82 m <sup>±</sup>	51.82 m <sup>±</sup>	560.69 m <sup>2</sup> ±
<b>RETAINED LANDS:</b>	10.82 m <sup>±</sup>	51.82 m <sup>±</sup>	560.69 m <sup>2</sup> ±

Associated Planning Act File(s): N/A

**THE DECISION OF THE COMMITTEE IS:**

That the said application, as set out above, Approved as Amended with Conditions, for the following reasons:

1. The proposal does not conflict with the intent of the Urban/Rural Hamilton Official Plan.
2. The proposal does not contravene Zoning By-law requirements.
3. The Committee considers the proposal to be in keeping with development in the area.
4. The Committee is satisfied that a plan of subdivision is not necessary for the proper and orderly development of the lands.
5. The submissions made regarding this matter affected the decision by supporting the granting of the application, with amendments.

**Having regard to the matters under subsection 51(24) of the Planning Act, R.S.O. 1990, c.P. 13, the said application shall be subject to the following condition(s):**

1. The owner shall submit a deposited Ontario Land Surveyor’s Reference Plan to the Committee of Adjustment Office, unless exempted by the Land Registrar. The reference plan must be submitted in pdf and also submitted in CAD format, drawn at true scale and location and tied to the City corporate coordinate system. (Committee of Adjustment Section)

**B-24:44**

2. The owner shall pay any outstanding realty taxes and/or all other charges owing to the City Treasurer. (Committee of Adjustment Section)
3. The owner submits to the Committee of Adjustment office an administration fee, payable to the City of Hamilton, to cover the costs of setting up a new tax account for each newly created lot. (Committee of Adjustment Section)
4. A Permit to injure or remove municipal trees is a requirement of this application. A Tree Management Plan must be submitted to the Forestry and Horticulture Section c/o the Urban Forestry Health Technician, to address potential conflicts with publicly owned trees.
5. The owner shall comply with Ontario Building Code requirements regarding spatial separation distances of any structures. Compliance to be confirmed by the Planning and Economic Development Department Building Division –Plans Examination Section.
6. The owner/applicant shall receive final approval of the appropriate Planning Act application in order to seek relief from the requirements of the Zoning By-law (Planning Division – Zoning Review Section).
7. The owner/applicant shall apply for a demolition permit to demolish all or an appropriate portion of any buildings straddling the proposed property line, or alternatively apply for and receive final approval of the appropriate Planning Act application in order to seek relief from the requirements of the Zoning By-law (Planning Division – Zoning Review Section). NOTE: The demolition permit shall have a status of either “Review”, “Issued”, or “Closed” in order for this condition to be cleared by the Zoning Review Section.
8. The owner/applicant shall demolish the detached garage and shed on the lands to be conveyed to the satisfaction of the Planning and Economic Development Department (Planning Division – Zoning Review Section), or alternatively apply for and receive final approval of the appropriate Planning Act application in order for the detached garage and shed to remain when no principal use is existing (Planning Division – Zoning Review Section). NOTE: If a demolition permit is required, the permit shall have a status of either “Review”, “Issued”, or “Closed” in order for this condition to be cleared by the Zoning Review Section.
9. Transportation Planning has no objection to the severance if the required right-of-way dedication of approximately  $\pm$  3 metres is dedicated to the City of Hamilton on Dewitt Road. (To the satisfaction and approval of the Manager, Transportation Planning).
10. Dewitt Road is a collector road per the Council Approved Urban Official Plan: Chapter C – City Wide Systems and Designations, 4.5 Road Network Functional Classification, 4.5.2. Collector Roads are to be 26.213 metres. The existing right-of-way on Dewitt Road at the subject property is approximately 20 metres. (To the satisfaction and approval of the Manager, Transportation Planning).
11. A survey conducted by an Ontario Land Surveyor and at the Applicant’s expense will determine the ultimate dimensions for the right-of-way widening. (To the satisfaction and approval of the Manager, Transportation Planning).

**B-24:44**

12. The Applicant's surveyor is to contact Geomatics and Corridor Management to confirm the right of- way dedication requirements. (To the satisfaction and approval of the Manager, Transportation Planning).
13. That the owner apply for, and obtain final approval of, a Minor Variance Application to address any zoning deficiencies, to the satisfaction of the Director of Development Planning, if required.
14. That the owner submits and receive approval of a Tree Protection Plan for the lands to be retained, including the review fee as per the Schedule of Rates and Fees, prepared by a qualified tree management professional (i.e. certified arborist, registered professional forester or landscape architect), to the satisfaction of the Manager of Heritage and Design.
15. If tree removal is proposed that the owner submit and receive approval of a Landscaped Plan for the severed and retained lands, to the satisfaction of the Manager of Heritage and Urban Design.
16. That the existing single detached dwelling and accessory building(s) be demolished through the issuance of the appropriate municipal permit to the satisfaction of the Director of Development Planning.
17. That the Owner must enter into with the City of Hamilton and register, a Consent Agreement, having an administrative fee of \$5,065.00 (includes grading plan review) to address issues including but not limited to: lot grading and drainage to a suitable outlet on the conveyed and retained parcels (detailed grading plan required), erosion and sediment control measures (to be included on the grading plan); cash payment requirements for items such as any outstanding servicing cost for the existing municipal services adjacent to the property, street trees (City policy requires one (1) street tree/lot, inspection of grading, stormwater management infrastructure and securities for items that may include: lot grading (\$10,000.00 grading security), water and sewer services inspections, driveway approaches, relocation of any existing infrastructure (such as hydrants) and any damage during construction (unknown costs at this time), to the satisfaction of the City's Director of Development Engineering.
18. The applicant shall submit a Stormwater Brief prepared by a qualified professional to demonstrate the change in stormwater runoff due to an increased impervious area will be handled on the site for all storm events to the allowable discharge rate all to the satisfaction of the Manager of Development Engineering.

DATED AT HAMILTON, September 10, 2024.

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D. Smith (Chairman)

N. Lauwers

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D. Lord

R. Reid

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S. Rybarczyk

M. Switzer

The date of the giving of this Notice of Decision is **September 13, 2024**. Above noted conditions **MUST** be fulfilled within **TWO (2) YEARS** of the date of this Notice of Decision (September 13, 2026) or the application shall be deemed to be REFUSED (Planning Act, 53(41)).

NOTES:

1. THE LAST DATE ON WHICH AN APPEAL TO THE ONTARIO LAND TRIBUNAL (OLT) MAY BE FILED IS **October 3, 2024 at 4:30pm**. A Notice of Appeal must be filed with the Secretary-treasurer of the Committee of Adjustment, must set out the reasons for the appeal and must be accompanied by the applicable fee. See Appeal Information Consents/Severances for more information.
2. **This Decision is not final and binding unless otherwise noted and must not be acted upon until the period of appeal has expired.**
3. The Decision does not release any persons from the necessity of observing the requirements of building regulations, the license by-law, or any other by-law of the City of Hamilton.



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### APPEAL INFORMATION – CONSENTS/SEVERANCES

#### 1. Who may file an appeal of the Decision of the Committee of Adjustment or Consent Authority?

Please note neighbours and other interested parties not defined are no longer eligible to file Planning Act Section 53(19) appeals. See [Bill 23, More Homes Built Faster Act, 2022](#) for more information.

Planning Act Section 53(19) appeals may be filed by the applicant, the Minister of Municipal Affairs and Housing, a “specified person” (as defined by Planning Act 1(1)), and any “public body” (as defined by Planning Act 1(1)).

#### 2. When must an appeal be received to be considered?

Planning Act Section 53(19) appeals must be received no later than the end of business on the last date of appeal listed on the Notice of Decision. The last date of appeal is 20 days from the date of the giving of Notice of the Decision. Please see Notice of Decision for exact date and time.

#### 3. Where must the appeal be filed to be considered?

Planning Act Section 53(19) appeals must be received in one of the following formats:

**Hardcopy:** at City Hall and addressed to the Secretary-Treasurer of the Committee of Adjustment, Hamilton City Hall, 5th Floor, 71 Main Street West, Hamilton, ON, L8P 4Y5. Do not address appeals to any other departments or locations. Appeals received by the office of the Committee of Adjustment after the last date of appeal as a result of second-hand mailing will be time barred and of no effect.

**Electronic copy:** by email delivered to [cofa@hamilton.ca](mailto:cofa@hamilton.ca). Do not address appeals to any other departments or locations. Appeals received by the office of the Committee of Adjustment after the last date of appeal as a result of incorrectly addressed emails will be time barred and of no effect. If the information submitted will include large file sizes not able to be sent in one email, please contact [cofa@hamilton.ca](mailto:cofa@hamilton.ca) in advance to request a file sharing link.

**E-file Portal:** By filing an appeal through the OLT E-file Portal at <https://olt.gov.on.ca/e-file-service/> to Hamilton (City) – Committee of Adjustment and Consent Authority (select appropriate approval body as outlined on the Notice of Decision). Appeals received by the office of the Committee of Adjustment after the last date of appeal as a result of incorrectly chosen approval authority will be time barred and of no effect.

Please note only one of the above options needs to be completed. If your preferred method of appeal is not available at the time of appeal, the appeal must be filed with one of the other two

options. Appeals received after the date of appeal as a result of one of the methods being unavailable will be time barred and of no effect.

#### **4. What information must be submitted for the appeal to be considered?**

Planning Act Section 53(19) appeals must include:

- Notice of appeal, the Ontario Land Tribunal (OLT) Appeal Form, this can be found by contacting Committee of Adjustment staff at the 5<sup>th</sup> floor of City Hall or at the OLT website <https://olt.gov.on.ca/appeals-process/forms/>, a cover letter, etc. may also be submitted if there is not sufficient room in the form;
- Filing fee, the fee is currently \$400 (subject to change) and must be paid as outlined on the OLT Appeal Form or OLT E-file Portal;
- All other information as required by the Appeal Form.

Questions or Information:

Contact Committee of Adjustment Staff ([cofa@hamilton.ca](mailto:cofa@hamilton.ca))