



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 DECISION
Minor Variance

APPLICATION NO.:	A-24-189	SUBJECT PROPERTY:	852 Upper Wentworth St, Hamilton
ZONE:	C5 (Mixed Use Medium Density)	ZONING BY-LAW:	Zoning By-law City of Hamilton 05-200, as Amended 17-240

APPLICANTS: Owner: Teresa Clarizion
Applicant: Richie Khanna - R&R Designs

The following variances are **GRANTED WITH CONDITIONS**:

1. A minimum rear yard setback of 1.78 metres shall be permitted instead of a minimum rear yard setback of 7.5 metres.
2. A maximum increase of 17.1% of the Gross Floor Area of the building existing at the date of the passing of the by-law shall be permitted instead of an increase shall not exceed a maximum of 10% Gross Floor Area of the building existing at the date of the passing of the by-law.

Notes:

- i. Please note that insufficient information has been provided to determine if parking is to be proposed within the attached garage. Please note, should additional parking spaces be indicated, regulations under Section 5 of Zoning By-law 05-200 shall apply to all proposed parking spaces.
- ii. Be advised, Zoning By-Law Amendment 24-051 and 24-052 was passed on April 10, 2024. The Amendments remain Not Final and Binding and as such, both regulations under the current Hamilton Zoning By-Law 05-200 and those regulations applicable under Zoning By-Law Amendment 24-051 and 24-052 are applicable to the subject property. For the purposes of this review, an additional review has been conducted as it relates to any additional regulations required under Zoning By-Law Amendment 24-051 and 24-052. Until such time that Zoning By-Law Amendment 24-051 and 24-052 are deemed Final and Binding, regulations under both the current Zoning By-Law and the Amending By-laws shall apply.

In addition to comment i) above, should parking be indicated within the proposed garage, the requirements of Section 5 under Zoning By-law amendment 24-052 shall also apply to the parking spaces, with the most restrictive requirements under Zoning By-law 05-200 and Zoning By-law amendment 24-052 being applied.

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Such requirements include, but are not limited to parking space size, minimum garage elevation above grade, and electric vehicle parking for all proposed spaces not currently existing. Should parking spaces be proposed that do not meet the requirements under Section 5, additional variances may be required.

- iii. Please note, insufficient information has been provided to confirm the amount of landscaped area provided on the lot as a result of the proposed garage. Be advised, as per Section 4.35 c), a minimum area of 3.75 metres x 3.75 metres is required within a landscaped area for tree protection or planting and shall not include hard landscaping or structures. Should the proposed garage result in a reduction of landscaping in which the minimum 3.75 metres x 3.75 metres area can no longer be provided, additional variances may be required.

THE DECISION OF THE COMMITTEE IS:

That the variances, as set out above, are **GRANTED WITH CONDITIONS** for the following reasons:

1. The Committee, having regard to the evidence, is of the opinion that the relief granted is of a minor nature.
2. The relief granted is desirable for the appropriate development of the land and building and is consistent with the general intent and purpose of the By-laws and the Official Plans as referred to in Section 45 of The Planning Act, 1990.
3. The Committee, having regard to the evidence, is satisfied that there will be no adverse impact on any of the neighbouring lands.
4. The submissions made regarding this matter affected the decision by supporting the granting of the application.

That the said application be GRANTED subject to the following conditions:

1. That the variances only apply to the provided drawings as identified in Notice of Public Hearing for Application Number A-24-189. (Drawing No. SP.02, A1.01, A1.02, A2.01, A2.02 and S1.01) dated August 6, 2024, issued for Minor Variance.
2. That the Owner shall complete a Zoning Compliance review that confirms the existing single detached dwelling is a legal non-conforming use, to the satisfaction of the Director of Development Planning.

DATED AT HAMILTON, September 24, 2024.

D. Smith (Chairman)

R. Reid

L. Gaddy

N. Lauwers

S. Rybarczyk

M. Switzer

NOTES:

1. THE LAST DATE ON WHICH AN APPEAL TO THE ONTARIO LAND TRIBUNAL (OLT) MAY BE FILED IS **October 15, 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 – Minor Variances 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 – MINOR VARIANCES

1. Who may file an appeal of the Decision of the Committee of Adjustment?

Please note neighbours and other interested parties not defined are no longer eligible to file Planning Act Section 45(12) appeals. See [Bill 23, More Homes Built Faster Act, 2022](#) for more information.

Planning Act Section 45(12) 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 a “public body that has an interest in the matter” (as defined by Planning Act 1(1)).

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

Planning Act Section 45(12) 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 Decision. Please see Notice of Decision for exact date and time.

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

Planning Act Section 45(12) 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. 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 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 45(12) 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 5th 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.