



Hamilton

STAFF COMMENTS

HEARING DATE: November 12, 2024

A-24:218 – 308 Charlton Avenue West, Hamilton

Recommendation:

Table

Proposed Conditions:

Proposed Notes:



Development Planning:

Background

So as to permit the expansion of the second and third storeys of an existing single detached dwelling, along with a covered front porch.

Staff note that this Minor Variance application was made under Section 45(1) of the *Planning Act*. However, as this application is to permit the expansion of a recognized legal non-conforming use, Development Planning staff are of the opinion that reviewing this Minor Variance application under Section 45(2)(a) of the *Planning Act* is more appropriate. Accordingly, staff have reviewed this Minor Variance application under Section 45(2)(a)(i) of the *Planning Act*.

Analysis

Urban Hamilton Official Plan

The subject lands are identified as “Neighbourhoods” in Schedule E – Urban Structure and are designated “Mixed Use – Medium Density” in Schedule E-1 – Urban Land Use Designations of the Urban Hamilton Official Plan. As this application is regarding legal non-complying uses, Policies B.3.4.3.6, B.3.4.3.7, F.1.12.7, F.1.12.8 and F.1.12.9, among others, is applicable.

- “F.1.12.7 Legally existing land uses which do not comply with the land use designations shown on Schedule E-1 – Urban Land Use Designations or their related policies should cease to exist over time. Accordingly, such uses shall be deemed as legal non complying.
- F.1.12.8 Where appropriate, the City may amend the Zoning By-law to recognize the legal non-complying use as an existing use provided that all the following criteria shall be met:
- a) the Zoning By-law shall permit only the existing use and the associated performance standards;
 - b) the use does not constitute a danger to surrounding uses and persons by virtue of their hazardous nature or by the traffic generated; and,
 - c) the use is in compliance with appropriate provincial and municipal regulations.
- F.1.12.9 The expansion or enlargement or change in legal non-complying uses shall be permitted provided they maintain the intent and purpose of this Plan and the Zoning By-law.”

Policies B.3.4.3.6 and B.3.4.3.7 seek to conserve and protect built heritage resources and character within established historical neighbourhoods in the context of residential intensification. The read as follows:

- “B.3.4.3.6 The City shall protect established historical neighbourhoods, as identified in the cultural heritage landscape inventory, secondary plans and other City initiatives, by ensuring that new construction and development are sympathetic and complementary to existing cultural heritage attributes of the neighbourhood, including lotting and street patterns, building setbacks and building mass, height, and materials



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B.3.4.3.7 Intensification through conversion of existing built heritage resources shall be encouraged only where original building fabric and architectural features are retained and where any new additions, including garages or car ports, are no higher than the existing building and are placed to the rear of the lot or set back substantially from the principal façade. Alterations to principal façades and the paving of front yards shall be avoided.”

The existing single detached dwelling is deemed legal non-complying. There are no changes to the use occurring on the subject property. However, based upon Cultural Heritage Planning staff’s comments, there is concern regarding potential negative impacts on the neighbouring cultural and built heritage resources, and the compatibility of the proposed design with the neighbourhood. Development Planning staff recommending tabling the application to provide an opportunity for staff and the applicant to discuss revisions to the proposal to address Cultural Heritage Planning staff’s concerns.

Kirkendall North Neighbourhood Plan

The subject lands are identified as “Commercial and Low Density Residential” on Map 6803 (Map 2 of 2) within the Kirkendall North Neighbourhood Plan.

Archaeology

No comments.

Cultural Heritage

The property known as 308 Charlton Avenue West is located within the Kirkendall North Established Historical Neighborhood. The property contains a circa 1900 brick building that is of heritage interest and identified on the City of Hamilton’s Inventory of Heritage Properties. Additionally, the subject property is located near a concentration of properties of cultural heritage value or interest listed on the City’s Inventory of Heritage Properties, including:

- 320 Charlton Avenue West
- 233 Locke Street South
- 232 Locke Street South

Accordingly, Sections B.3.4.1.3, B.3.4.2.1(g) and B.3.4.3.6 of the Urban Hamilton Official Plan, Volume 1, apply.

The proponent proposes to permit an expansion of the second and third storey levels of the existing single detached dwelling along with a covered front porch.

Staff have reviewed the application and are not in support of the proposed plans given this is a corner property that is highly visible from both Locke Street South and Charlton Avenue W. In addition, the following sections of the Urban Hamilton Official Plan apply:



- B.3.4.3.6 The City shall protect established historical neighbourhoods, as identified in the cultural heritage landscape inventory, secondary plans and other City initiatives, by ensuring that new construction and development are sympathetic and complementary to existing cultural heritage attributes of the neighbourhood, including lotting and street patterns, building setbacks and building mass, height, and materials
- B.3.4.3.7 Intensification through conversion of existing built heritage resources shall be encouraged only where original building fabric and architectural features are retained and where any new additions, including garages or car ports, are no higher than the existing building and are placed to the rear of the lot or set back substantially from the principal façade. Alterations to principal façades and the paving of front yards shall be avoided.

Staff recommend breaking up the third storey dormers to reduce the massing and to keep them below the existing roofline. For example, a set of two or three gable roof dormers would improve the current design to be more compatible with the existing property and neighbouring properties.

Staff have no further comments on the application as circulated.

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

The subject lands are zoned Mixed Use Medium Density – Pedestrian Focus (C5a) Zone in City of Hamilton Zoning By-law No. 05-200. The existing single detached dwelling is not a permitted use.

Variances 1 and 2

1. A 61% increase of the gross floor area of the building shall be permitted whereas the Zoning By-law permits a maximum increase of 10% of the existing gross floor area to a legally established non-conforming single detached dwelling.
2. A covered porch shall be permitted to be constructed in the front yard of a legally established non-conforming use and may encroach a maximum of 1.47 metres into the front yard (and therefore being 0.15 metres from the front lot line) whereas the Zoning By-law permits a maximum porch encroachment of 0.81 metres.

The applicant proposes to permit the expansion of a legal non-conforming use by making additions to the second and third storeys of the existing single detached dwelling on the subject property and the addition of a covered front porch to serve as the primary entrance to the dwelling.

Staff note that this application is being reviewed in accordance with Section 45(2)(a)(i) of the *Planning Act*, which reads:

“(i) the enlargement or extension of the building or structure, if the use that was made of the building or structure on the day the by-law was passed, or a use permitted under subclause (ii) continued until the date of the application to the committee, but no permission may be given to enlarge or extend the



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building or structure beyond the limits of the land owned and used in connection therewith on the day the by-law was passed”

Having regard for the matters under subsection 45(2) of the *Planning Act*, staff are satisfied that the existing single detached dwelling has legal non-conforming status and the proposed additions and covered porch will be an extension of the existing status. However, **staff recommend tabling** this application to allow staff an opportunity to discuss the existing built heritage resource with the applicant.

Zoning:

Recommendation:	Comments Only
Proposed Conditions:	
Comments:	<p>i. Based on an existing gross floor area of 114.3 square metres, the By-law would permit an addition of not more than 11.43 square metres, whereas a 68.6 square metre addition is proposed.</p> <p>As it relates to variance No. 2, the By-law only permits the repair, restoration or replacement of an existing porch accessory to a legal non-conforming use, provided that such repair, restoration, or replacement will not increase the height, area or volume, or site coverage of such structure.</p>
Notes:	

Development Engineering:

Recommendation:	Comments Only
Proposed Conditions:	N/A
Comments:	Provided the existing drainage pattern is maintained, Development Engineering has no comments or objections to the minor variances as proposed.
Notes:	

Building Engineering:

Recommendation:	Comments Only
Proposed Conditions:	
Comments:	
Notes:	A building permit is required for the alteration of the proposed second and third storey levels of the existing single detached dwelling along with the construction of a proposed covered front porch.



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STAFF COMMENTS

HEARING DATE: November 12, 2024

	Be advised that Ontario Building Code regulations may require specific setback and construction types.
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Transportation Planning:

Recommendation:	No Comments
Proposed Conditions:	
Comments:	
Notes:	

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

October 31, 2024

City of Hamilton
Planning and Economic Development Department
71 Main St W
Hamilton, Ontario
L8P 4Y5

Attention: Committee of Adjustment

File# A-24:218

Re: 308 Charlton St W

In response to your correspondence dated October 24, 2024, please be advised that our Engineering Design Department has reviewed the information concerning the above noted Consent Application and our comments are as follows:

- For Residential/Commercial electrical service requirements, the Developer needs to contact our ICI and Layouts Department at 905-798-2634 or 905-798-3370 or visit our web site @ www.alectrautilities.com. To make a service request, [Make a Service Request | Alectra Utilities](#)
- Minimum 4m horizontal clearance from existing O/H line(s) must be maintained at all times as per Alectra Utilities Standard 3-105. Please consult with Alectra Utilities if further clarification is required.
- Relocation, modification, or removal of any existing hydro facilities shall be at the owner's expense. Please contact Alectra Utilities to facilitate this.
- Developers shall be responsible for the cost of civil work associated with duct structures, transformer foundations, and all related distribution equipment.
- In order for Alectra Utilities to prepare design and procure the materials required to service this site in a timely manner, a minimum of 6 months notification is required. It would be advantages for the developer if Alectra Utilities were contacted at the stage where the new site plan becomes available. Please note that it takes approximately 36-52 weeks to purchase a transformer.
- Proposed 3rd Storey Alteration/Addition is conflict with existing O/H High Voltage Primary conductor.

We would also like to stipulate the following:

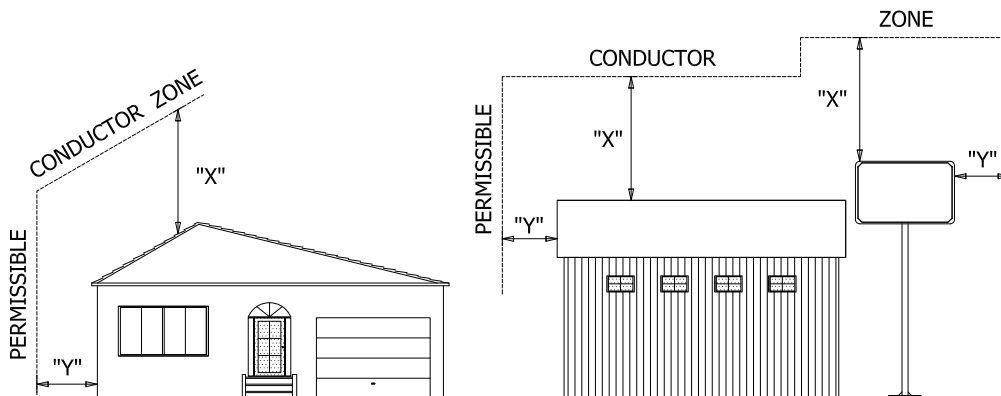
- Do not excavate within two metres of hydro poles and anchors.
- Excavation within one metre of underground hydro plant is not permitted unless approval is granted by an Alectra Utilities representative and is present to provide direct supervision. Cost associated with this task shall be at the owner's expense.
- Alectra Utilities must be contacted if the removal, isolation or relocation of existing plant is required, all cost associated with this work will be at the owners expense.
- CALL BEFORE YOU DIG, arrange for underground hydro cable locate(s) before beginning construction by contacting Ontario One Call @ 1-800-400-2255.
- Clearances from Overhead and Underground existing electrical distribution system on our adjacent to the property must be maintained in accordance to:
 - Ontario Building Code (1997) Section 3.1 (3.1.18.1)
 - Electrical Safety Code Rule 75-312
 - Occupational Health and Safety Act (OH&SA) – Construction Projects (Electrical Hazards)
 - CSA Standard C22.3 No. 1:20, Overhead System
 - CSA Standard C22.3 No. 7:20, Underground Systems

We trust that you will find this information satisfactory and that the information contained within will be provided to the owner of this project. Should you have any questions regarding this response, please contact Charles Howell at 905-798-2517 in our Engineering Design Department.

Sincerely,

Mark Jakubowski

Mark Jakubowski
Supervisor, Design, Customer Capital



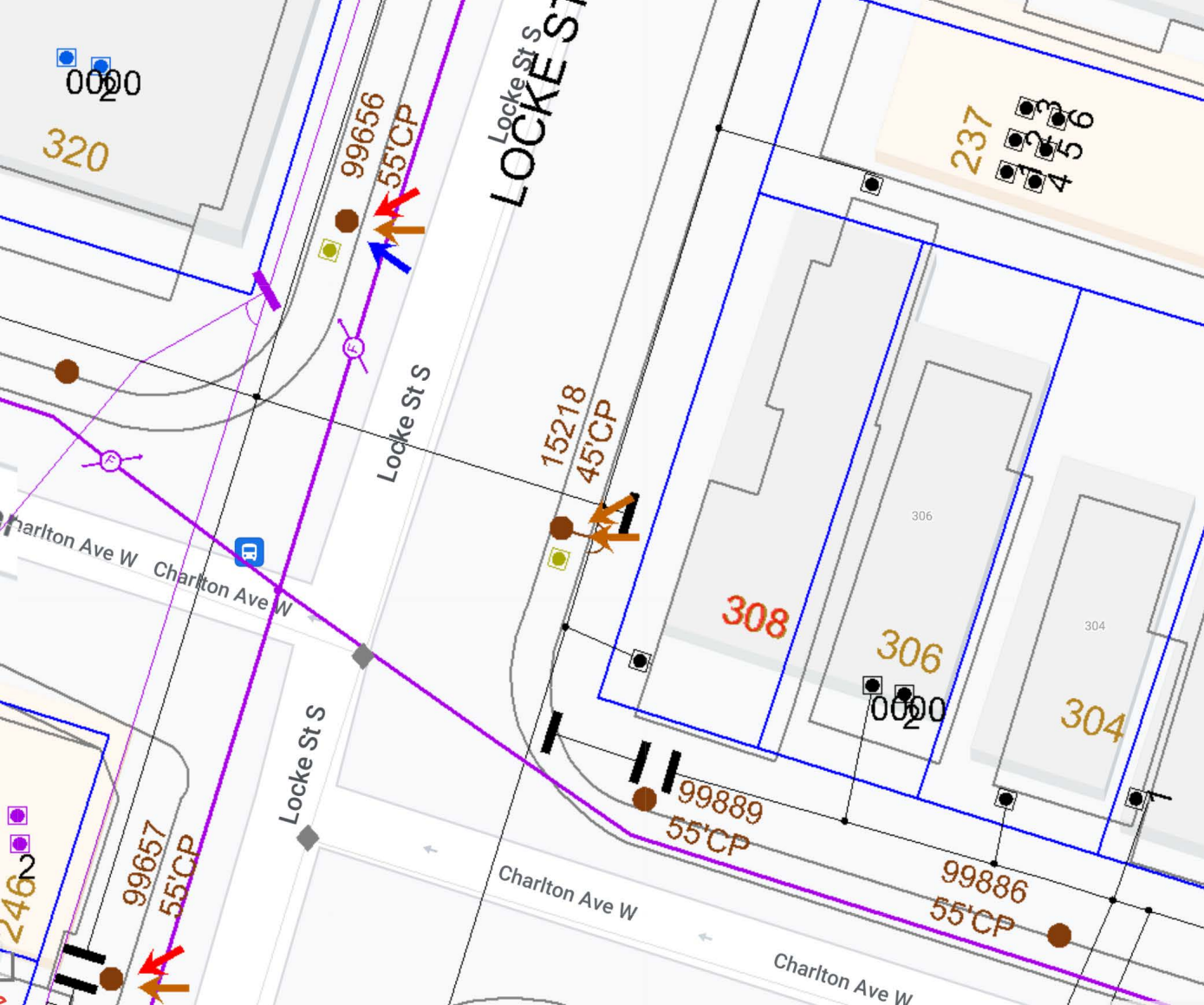
- UNDER NO CIRCUMSTANCES SHALL A CONDUCTOR BE PERMITTED TO PENETRATE THE ENVELOPE SHOWN BY THE DOTTED LINE.

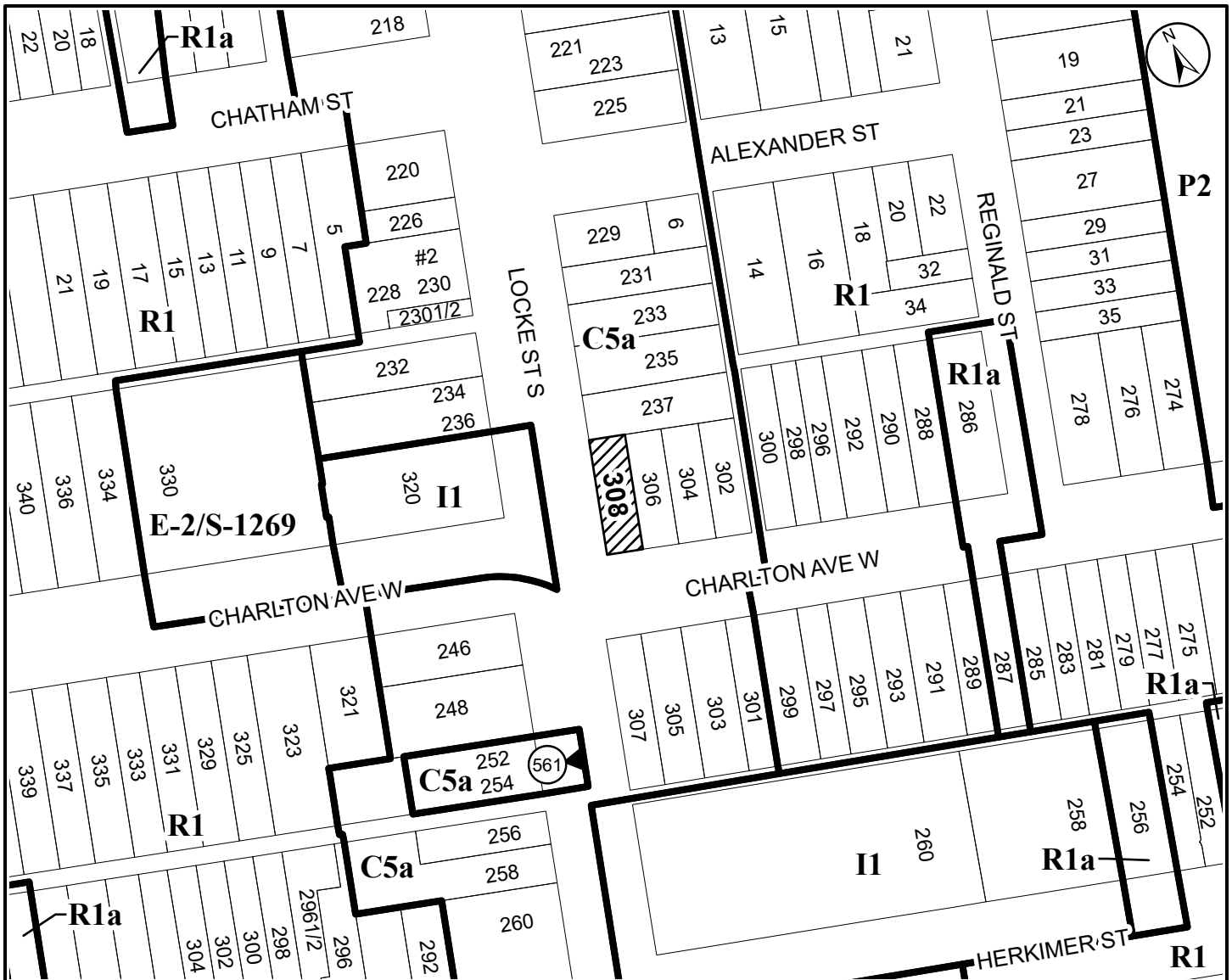
SYSTEM VOLTAGE	MINIMUM HORIZONTAL CLEARANCE DIMENSION "Y"	MINIMUM VERTICAL CLEARANCE DIMENSION "X"
0 - 750 V*	2.0 m (SEE NOTE 1)	4.5 m (SEE NOTE 3)
OVER 750 - 50000 V	4.0 m (SEE NOTE 2)	7.0 m (SEE NOTE 4)

* - INCLUDES MULTI-GROUNDED NEUTRALS

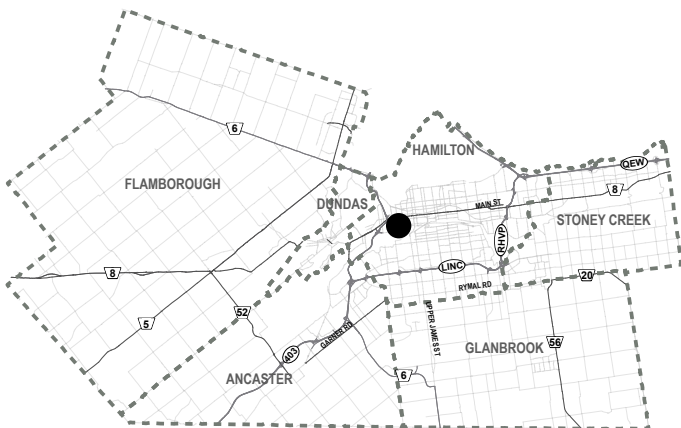
NOTES:

1. THIS CLEARANCE IS MADE UP OF A 1.0 m MINIMUM APPROACH CLEARANCE PLUS A 1.0 m ALLOWANCE FOR CONDUCTOR SWING. WHERE CONDUCTOR PASS IN FRONT OF A WINDOW OR OTHER OPENING, THIS 2.0 m CLEARANCE SHOULD BE INCREASED TO 2.5 m. WHERE BUILDINGS EXCEED 3 STOREYS OR 15.0 m IN HEIGHT, THE 2.0 m CLEARANCE SHOULD BE INCREASED TO 3.0 m TO ALLOW FOR RAISING OF LADDERS BY THE LOCAL FIRE DEPARTMENT.
2. THIS CLEARANCE IS MADE UP OF A 3.0 m MINIMUM APPROACH CLEARANCE PLUS A 1.0 m ALLOWANCE FOR CONDUCTOR SWING.
3. THIS DIMENSION PROVIDES 1.0 m MINIMUM APPROACH CLEARANCE FROM A 2.0 m TALL WORKMAN, PLUS A 1.5 m ALLOWANCE FOR CONDUCTOR SAG. (BASED ON AVERAGE SPAN OF 40 m)
4. THIS DIMENSION PROVIDES 3.0 m MINIMUM APPROACH CLEARANCE FROM A 2.0 m TALL WORKMAN, PLUS A 2.0 m ALLOWANCE FOR CONDUCTOR SAG. (BASED ON AVERAGE SPAN OF 40 m).
5. THE ABOVE CLEARANCES ARE MINIMUM VALUES. EFFORTS SHOULD BE MADE TO INCREASE THESE CLEARANCES ABOVE THOSE SHOWN, WHERE POSSIBLE. TO KEEP WORKMEN AND THEIR EQUIPMENT ON THE BUILDING ETC., AT THE MINIMUM CLEARANCE SHOWN, DIMENSION "X" AND "Y" ARE TO BE INCREASED BY THE REQUIRED WORKING DISTANCE.





● Site Location



City of Hamilton

Committee of Adjustments

Subject Property



308 Charlton Avenue West,
Hamilton (Ward 1)

File Name/Number:
A-24:218

Date:
October 30, 2024

Technician:
SH

Scale:
N.T.S.

Appendix "A"



Hamilton