



Hamilton

**STAFF COMMENTS**

**HEARING DATE: January 21, 2025**

A-24:262 – 51 Berry Avenue, Hamilton

**Recommendation:**

Approve Variance 1 — Development Planning

Deny Variance 2 — Development Planning

**Proposed Conditions:**

**Proposed Notes:**



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**HEARING DATE: January 21, 2025**

## **Development Planning:**

### **Background**

The variances seek to facilitate the construction of an Accessory Building to be located in the rear yard of an existing Single Detached Dwelling.

The following Variances are requested:

1. A maximum gross floor area of 32.4m<sup>2</sup> shall be permitted for all buildings accessory to the single detached dwelling instead of the requirement that all buildings accessory to a Single Detached Dwelling shall not exceed a maximum gross floor area of 7.5% (23.18m<sup>2</sup>) or 45m<sup>2</sup>, whichever is the lesser.
2. The proposed shed shall be permitted to be located a minimum of 0.3m from the southerly side lot line and the rear lot line instead of the minimum 1.2m setback required from a side lot line and a rear lot line.

### **Urban Hamilton Official Plan**

The subject lands are designated “Neighbourhoods” on Schedule E-1 - Urban Land Use Designations in the Urban Hamilton Official Plan. Policy E.3.4.3 a) permits single detached dwellings. Policies E.3.2.7 and E.3.2.8, among others, are applicable. Accordingly, the existing single detached dwelling and the proposed accessory building are permitted. Policy E.3.2.8 a) provides guidance on the compatibility of development with surrounding uses in terms of scale, massing, height, siting, orientation, and setbacks. Staff are of the opinion that the proposed reduced setbacks to accommodate the accessory building are not appropriate as they do not provide sufficient space for drainage and maintenance between the proposed structure and property line.

### **Archeology:**

No Comment.

### **Cultural Heritage:**

The property known as 51 Berry Avenue, is located within the Bartonville Established Historical Neighborhood.

Accordingly, sections B.3.4.1.4; B.3.4.2.1(h); B.3.4.6.2 and B.3.4.3.6 of the Urban Hamilton Official Plan, Volume 1, apply.

The proponent proposes construction of an Accessory Building in the rear yard of the existing Single Detached Dwelling.



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Where new construction and/or alterations or additions to existing structures are proposed in a historic neighbourhood, key considerations are the visual and physical impacts on landscape features, typically public views of the building fabric, building set-back, the streetscape and significant vistas.

Notwithstanding that the subject property is within the Bartonville Established Historical Neighbourhood, staff have reviewed the application and are of the opinion that the cultural heritage value of the landscape will be conserved. Staff have no further comments on the application as circulated.

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

The subject property is zoned R1a (Residential Small Lot) in Zoning By-law No. 05-200. This zone permits the use of Single Detached Dwellings and uses accessory thereto.

### **Analysis**

#### Variance 1

1. A maximum gross floor area of 32.4m<sup>2</sup> shall be permitted for all buildings accessory to the single detached dwelling instead of the requirement that all buildings accessory to a Single Detached Dwelling shall not exceed a maximum gross floor area of 7.5% (23.18m<sup>2</sup>) or 45m<sup>2</sup>, whichever is the lesser.

The intent of the maximum gross floor area provision for accessory buildings to a single detached dwelling is to prevent accessory buildings from becoming the dominant structure over the primary land use, as well as to prevent the over development of the lands and to ensure sufficient space remains for other considerations such as amenity area and landscaped area. Variance 1 would propose a gross floor area of 32.4 square metres or approximately  $\approx 10.5\%$  of the lot area. The requested 32.4 square metre gross floor area remains below the maximum 45 square metres established in the by-law and the increase in lot coverage from 7.5% to 10.5 % is considered minor. Staff also note that the proposed structure will remain subordinate to the primary structure and that there remains sufficient rear yard amenity area ( $\approx 7.09$  metres) and landscaped area on the lands. Staff are of the opinion that this change is minor and takes into account the existing context of the area. The proposed increase does not appear to pose any undue impact on neighbouring lands. The proposed variance maintains the general intent of the maximum gross floor provision and does not result in the over development of the lands. Staff are supportive of Variance 1 as it meets the four tests for a minor variance under the *Planning Act*.

2. The proposed shed shall be permitted to be located a minimum of 0.3m from the southerly side lot line and the rear lot line instead of the minimum 1.2m setback required from a side lot line and a rear lot line.

The intent of the minimum yard setback provision is to ensure sufficient space between the building and property line for access and maintenance, as well as for grading and drainage so as to not impact neighbouring properties. The minimum yard setback provision also ensures sufficient space between



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the structure and neighbouring properties to limit impacts related to massing. Development Planning staff defer concerns related to grading and drainage to Development Engineering staff for comment. Staff are of the opinion that the proposed setback of 0.3 metres is not sufficient for access and maintenance to the building, and staff recommend that Variance 2 be denied.

Based on the foregoing, staff recommend approval of the Variance 1 & denial of Variance 2, as variance 1 maintains the general intent and purpose of the Official Plan and Zoning By-law, is minor in nature, and is desirable for the appropriate development of the lands and Variance 2 does not meet the general intent and purpose of the Official Plan and Zoning By-law, is not minor in nature, and is not desirable for the appropriate development of the lands.

**Zoning:**

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

**Cultural Heritage:**

Recommendation:	Comments Only
Proposed Conditions:	
Comments:	<p>Archeology:</p> <p>No Comment.</p> <p>Cultural Heritage:</p> <p>The property known as 51 Berry Avenue, is located within the Bartonville Established Historical Neighborhood.</p> <p>Accordingly, sections B.3.4.1.4; B.3.4.2.1(h); B.3.4.6.2 and B.3.4.3.6 of the Urban Hamilton Official Plan, Volume 1, apply.</p> <p>The proponent proposes construction of an Accessory Building in the rear yard of the existing Single Detached Dwelling.</p> <p>Where new construction and/or alterations or additions to existing structures are proposed in a historic neighbourhood, key considerations are the visual and physical impacts on landscape features, typically public views of the building fabric, building set-back, the streetscape and significant vistas.</p>



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Notes:	

**Development Engineering:**

Recommendation:	Comments Only
Proposed Conditions:	N/A
Comments:	Development Engineering requires a 0.9-meter side yard setback to accommodate a drainage swale. The proposed rear lot line setback of 0.3 m and side lot line setback of 0.30 m do not accommodate this; therefore, Development Engineering does not support the proposed Minor Variance.
Notes:	N/A

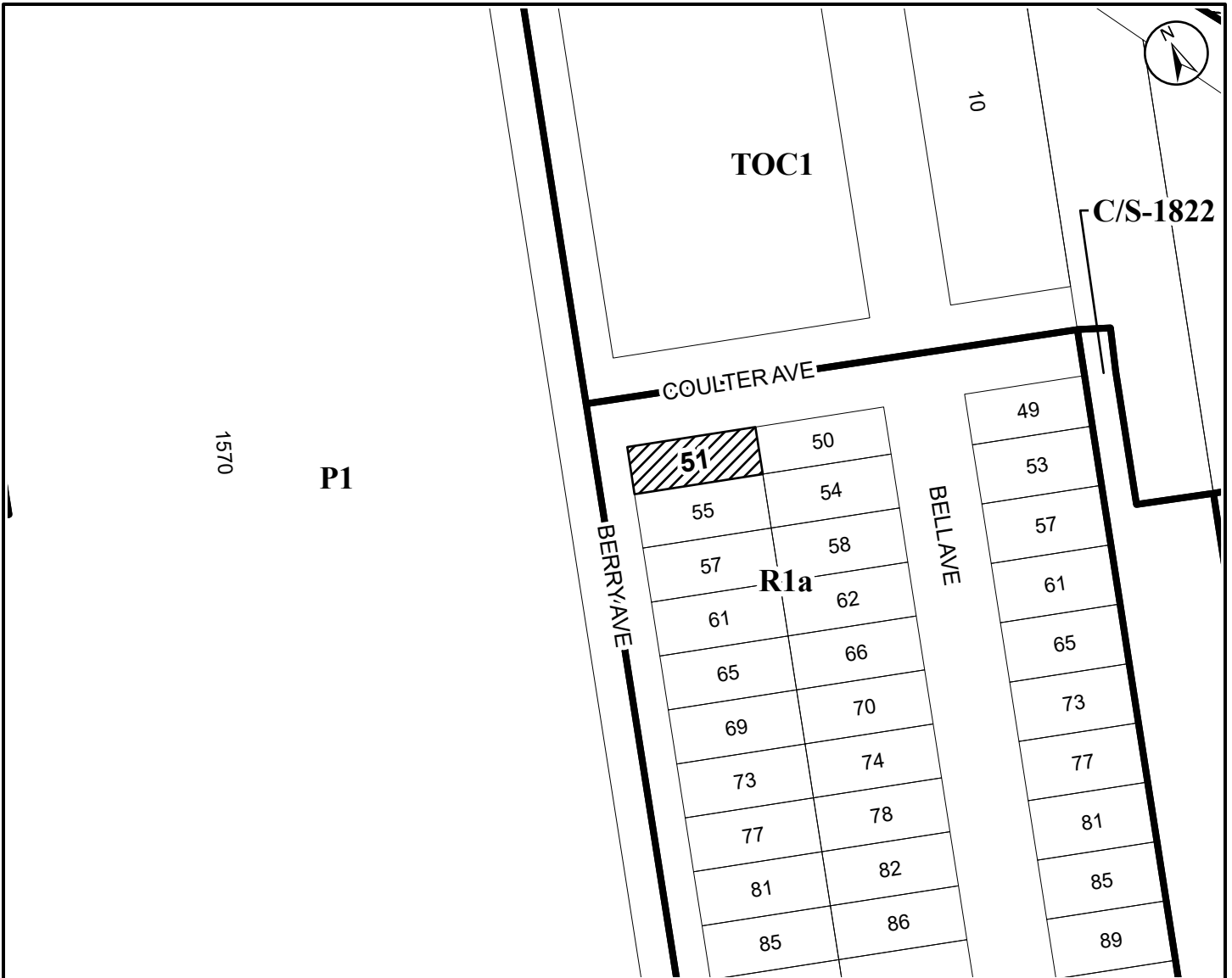
**Building Engineering:**

Recommendation:	Comments and Conditons/Notes
Proposed Conditions:	
Comments:	
Notes:	A building permit is required for the construction of the proposed accessory building in the rear yard of the existing single-family dwelling.  Be advised that Ontario Building Code regulations may require specific setback and construction types.

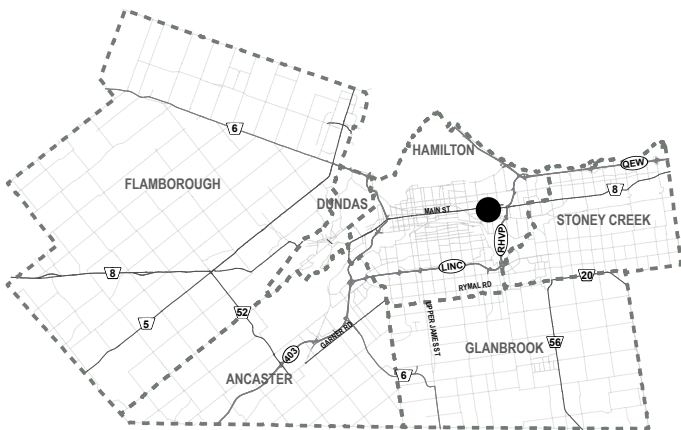
**Transportation Planning:**

Recommendation:	Approve
Proposed Conditions:	
Comments:	
Notes:	

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




● Site Location



**City of Hamilton**

## Committee of Adjustments

### Subject Property

 51 Berry Avenue, Hamilton (Ward 4)

File Name/Number:  
A-24:262

Date:  
January 8, 2025

Technician:  
SH

Scale:  
N.T.S.

Appendix "A"



**Hamilton**

Planning and Economic Development Department