



Hamilton

**STAFF COMMENTS**

**HEARING DATE: January 21, 2025**

A-24:261 – 83 Ewen Road, Hamilton

**Recommendation:**

Approve with conditions — Development Planning

**Proposed Conditions:**

1. That the owner submits and receives approval of a Tree Protection Plan including the review fee as part of the Schedule of Rates and Fees, to the satisfaction of the Manager of Heritage and Urban Design. The Tree Protection Plan is to be prepared by a qualified tree management professional (i.e., certified arborist, registered professional forester, or landscape architect) in accordance with the City's Council adopted Tree Protection Guidelines (revised October 2010). — Development Planning
2. That the owner submits and receives approval of a Landscape Plan that shows the location of compensation trees to the satisfaction of the Manager of Heritage and Urban Design. — Development Planning
3. That the proposed accessory building location and driveway widening are consistent with the site plan dated November 11, 2024, submitted with this application, to the satisfaction of the Director of Development Planning.

**Proposed Notes:**

**“Acknowledgement Note:** The subject property has been determined to be an area of archaeological potential. It is reasonable to expect that archaeological resources may be encountered during any demolition, grading, construction activities, landscaping, staging, stockpiling or other soil disturbances. If archaeological resources are encountered, the proponent may be required to conduct an archaeological assessment prior to further impact in order to address these concerns and mitigate, through preservation or resource removal and documentation, adverse impacts to any significant archaeological resources found. Mitigation, by an Ontario-licensed archaeologist, may include the monitoring of any mechanical excavation arising from this project. If archaeological resources are identified on-site, further Stage 3 Site-specific Assessment and Stage 4 Mitigation of Development Impacts may be required as determined by the Ontario Ministry of Citizenship and Multiculturalism (MCM). All archaeological reports shall be submitted to the City of Hamilton for approval concurrent with their submission to the MCM.

Should deeply buried archaeological materials be found on the property during any of the above



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development activities the MCM should be notified immediately (416-212-8886). In the event that human remains are encountered during construction, the proponent should immediately contact both MCM and the Registrar or Deputy Registrar of the Cemeteries Regulation Unit of the Ministry of Government and Consumer Services (416-212-7499).”

### **Development Planning:**

#### **Background**

To permit the construction of an accessory building (detached garage) in the rear yard of the existing dwelling.

#### **Analysis**

##### **Urban Hamilton Official Plan**

The subject lands are identified as “Neighbourhoods” in Schedule E – Urban Structure and are designated “Neighbourhoods” in Schedule E – 1 Urban Land Use Designations of the Urban Hamilton Official Plan. Policy E.3.2.3, amongst others, is applicable and permits the existing single detached dwelling and proposed accessory structure.

##### **Ainslie Wood Westdale Secondary Plan**

The subject lands are designated “Low Density Residential 2” in Land Use Plan Map – Map B.6.2-1 of the Ainslie Wood Westdale Secondary Plan. Policy 6.2.5.4 a) permits the existing single detached dwelling and proposed accessory structure.

#### **Archeology**

The subject property meets two (2) of the ten criteria used by the City of Hamilton and Ministry of Citizenship and Multiculturalism for determining archaeological potential:

- 1) Within 250 metres of known archaeological sites; and,
- 2) In areas of pioneer Euro-Canadian settlement.

These criteria define the property as having archaeological potential. Accordingly, Section 2 (d) of the Planning Act and Section 4.6.2 of the Provincial Planning Statement apply to the subject application.

**If this variance is granted, the City does not require an archaeological assessment, but the proponent must be advised in writing by the Committee of Adjustment as follows:**

**“Acknowledgement Note:** The subject property has been determined to be an area of archaeological potential. It is reasonable to expect that archaeological resources may be encountered



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during any demolition, grading, construction activities, landscaping, staging, stockpiling or other soil disturbances. If archaeological resources are encountered, the proponent may be required to conduct an archaeological assessment prior to further impact in order to address these concerns and mitigate, through preservation or resource removal and documentation, adverse impacts to any significant archaeological resources found. Mitigation, by an Ontario-licensed archaeologist, may include the monitoring of any mechanical excavation arising from this project. If archaeological resources are identified on-site, further Stage 3 Site-specific Assessment and Stage 4 Mitigation of Development Impacts may be required as determined by the Ontario Ministry of Citizenship and Multiculturalism (MCM). All archaeological reports shall be submitted to the City of Hamilton for approval concurrent with their submission to the MCM.

Should deeply buried archaeological materials be found on the property during any of the above development activities the MCM should be notified immediately (416-212-8886). In the event that human remains are encountered during construction, the proponent should immediately contact both MCM and the Registrar or Deputy Registrar of the Cemeteries Regulation Unit of the Ministry of Government and Consumer Services (416-212-7499).”

**Cultural Heritage**

No comments.

**Natural Heritage Planning**

The subject property is located within the boundaries of the Urban Hamilton Official Plan (UHOP) and has been identified within the Ainslie Wood Westdale Secondary Plan. Based on mapping within the Urban Hamilton Official Plan (Volume 1 Schedule B Natural Heritage System and Volume 2-Ainslie Wood Westdale Secondary Plan Land Use Plan Map B.6.2-1), components of the City’s Natural Heritage System (Core Areas and Linkages) have not been identified within or adjacent to the subject property. As a result, it is anticipated that the proposed accessory building will not negatively impact any features or functions of the City’s Natural Heritage System.

Through aerial photograph interpretation, trees have been identified within and adjacent to the subject property. The City recognizes the importance of trees to the health and quality of life in the community (i.e., canopy cover, energy conservation, mental health benefits) and encourages the protection and restoration of trees (Urban Hamilton Official Plan Volume 1 policy C.2.11.1). Based on the Plan provided, it appears that the proposed driveway may impact trees within or adjacent to the subject property, however, a tree protection plan has not been provided to confirm.



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If any tree (10 cm DBH or greater) is proposed to be removed, the City requires 1 for 1 compensation. This is to ensure that existing tree cover is maintained. Typically, this compensation is provided on a Landscape Plan.

The following conditions should be considered:

- That the owner submits and receives approval of a Tree Protection Plan including the review fee as part of the Schedule of Rates and Fees, to the satisfaction of the Manager of Heritage and Urban Design. The Tree Protection Plan is to be prepared by a qualified tree management professional (i.e., certified arborist, registered professional forester, or landscape architect) in accordance with the City's Council adopted Tree Protection Guidelines (revised October 2010).
- That the owner submits and receives approval of a Landscape Plan that shows the location of compensation trees to the satisfaction of the Manager of Heritage and Urban Design.

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

The subject lands are zoned Low Density Residential (R1) Zone in City of Hamilton Zoning By-law No. 05-200. The existing single detached dwelling and proposed accessory structure are permitted.

## **Variance 1**

1. The eave and gutter of the proposed accessory building shall be permitted to encroach 0.61 metres into the required northerly side yard instead of the maximum permitted encroachment of 0.45 metres into a required yard.

The intent of this provision is to ensure eaves or gutters do not encroach upon or cross over lot lines onto neighbouring properties and to ensure stormwater runoff does not negatively impact neighbouring properties.

Staff note that, as proposed, the eaves and gutter of the garage would maintain a setback of 0.6 metres from the northerly lot line and would not cross over the property line. Provided Development Engineering staff have no concerns regarding stormwater management or drainage, Development Planning staff support the variance.



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### **Variations 2 and 3**

2. An aggregate gross floor area of 85.5 square metres for all accessory buildings shall be permitted instead of the maximum permitted aggregate gross floor area of 45.0 square metres for all accessory buildings.
3. The maximum combined lot coverage of 85.5 square metres for all accessory buildings shall be permitted instead of the maximum permitted lot coverage of 45 square metres for all accessory buildings.

The intent of this provision is to ensure that accessory buildings are subordinate in size and scale to the principal building.

Staff note that the existing single detached dwelling has a ground floor area of approximately 80 square metres and a gross floor area of 118 square metres, with a height of 6.8 metres (or 1.5 storeys). The proposed detached garage would have a ground and gross floor area of 85.5 square metres and a height of 3.96 metres (or 1 storey), resulting in a footprint marginally larger than the single detached dwelling with a less prominent built form.

Additionally, as the garage would be located in the rear of the property, it would be behind the dwelling and setback significantly from the street at approximately 44 metres. Therefore, the proposed garage would remain subordinate in scale, character and role to the existing dwelling due to its location, lower height and smaller gross floor area.

Staff are of the opinion that the Variations 2 and 3 maintain the general intent of the Urban Hamilton Official Plan and Zoning By-law, are desirable for the appropriate use of the land and are minor in nature. Staff support the variations.

### **Variance 4**

4. A maximum driveway width of 11.3 metres shall be permitted instead of the maximum permitted driveway width of 8 metres for a dwelling without an attached garage.

The intent of this provision is to ensure the streetscape is not dominated by vehicular parking and to maintain the residential character the neighbourhood.

Staff are of the opinion that the requested variance maintains the general intent of the Urban Hamilton Official Plan and Zoning By-law, is desirable for the appropriate development and is minor in



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nature. Provided Development Engineering staff have no concerns, Development Planning staff support the variance.

Based on the foregoing, staff are of the opinion that the requested variances meet the four tests of a minor variance. **Staff recommend approval.**

**Zoning:**

Recommendation:	No Comments
Proposed Conditions:	
Comments:	
Notes:	

**Cultural Heritage:**

Recommendation:	Comments and Conditions/Notes
Proposed Conditions:	
Comments:	<p>Archeology:</p> <p>The subject property meets two (2) of the ten criteria used by the City of Hamilton and Ministry of Citizenship and Multiculturalism for determining archaeological potential:</p> <ol style="list-style-type: none"> <li>1) Within 250 metres of known archaeological sites; and,</li> <li>2) In areas of pioneer Euro-Canadian settlement.</li> </ol> <p>These criteria define the property as having archaeological potential. Accordingly, Section 2 (d) of the Planning Act and Section 4.6.2 of the Provincial Planning Statement apply to the subject application.</p> <p>Cultural Heritage: No Comments.</p>
Notes:	<p><b>If this variance is granted, the City does not require an archaeological assessment, but the proponent must be advised in writing by the Committee of Adjustment as follows:</b></p> <p><b>“Acknowledgement Note:</b> The subject property has been determined to be an area of archaeological potential. It is reasonable to expect that archaeological resources may be encountered during any demolition, grading, construction activities, landscaping, staging, stockpiling or other soil disturbances. If archaeological resources are encountered, the proponent may be required to conduct an archaeological assessment prior</p>



	<p>to further impact in order to address these concerns and mitigate, through preservation or resource removal and documentation, adverse impacts to any significant archaeological resources found. Mitigation, by an Ontario-licensed archaeologist, may include the monitoring of any mechanical excavation arising from this project. If archaeological resources are identified on-site, further Stage 3 Site-specific Assessment and Stage 4 Mitigation of Development Impacts may be required as determined by the Ontario Ministry of Citizenship and Multiculturalism (MCM). All archaeological reports shall be submitted to the City of Hamilton for approval concurrent with their submission to the MCM.</p> <p>Should deeply buried archaeological materials be found on the property during any of the above development activities the MCM should be notified immediately (416-212-8886). In the event that human remains are encountered during construction, the proponent should immediately contact both MCM and the Registrar or Deputy Registrar of the Cemeteries Regulation Unit of the Ministry of Government and Consumer Services (416-212-7499).”</p>
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**Development Engineering:**

Recommendation:	Comments Only
Proposed Conditions:	
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 and Conditions/Notes
Proposed Conditions:	
Comments:	
Notes:	<p>A building permit is required for the construction of the proposed accessory building in the rear yard of the existing building.</p> <p>A demolition permit is required for the demolition of the existing shed.</p> <p>Be advised that Ontario Building Code regulations may require specific setback and construction types.</p>



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**Transportation Planning:**

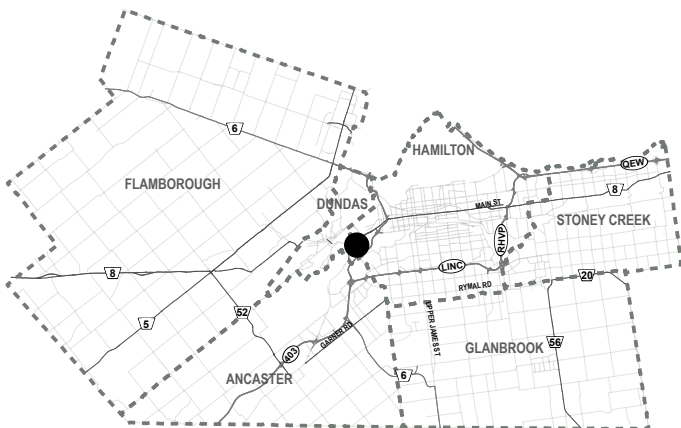
Recommendation:	Approve
Proposed Conditions:	
Comments:	
Notes:	

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





● Site Location



**City of Hamilton**

## Committee of Adjustments

### Subject Property

 83 Ewen Road, Hamilton (Ward 1)

File Name/Number:  
A-24:261

Date:  
January 8, 2025

Technician:  
SH

Scale:  
N.T.S.

Appendix "A"



**Hamilton**

Planning and Economic Development Department