



Hamilton

STAFF COMMENTS

HEARING DATE: February 13, 2025

A-24:285 — 287 Highway 52 North, Ancaster

Recommendation:

Deny — Development Planning

Proposed Conditions:

Proposed Notes:

A building permit is required for the construction the proposed additional dwelling unit.

Be advised that Ontario Building Code regulations may require specific setback and construction types. (Building Engineering)



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Development Planning:

Background

The purpose of the application is to facilitate the establishment of a proposed Additional Dwelling Unit - Detached. Staff note that the applicant applied for a variance in 2023 (Minor Variance application AN/A-23:91) to allow an accessory building within the front yard and to allow an accessory building to be on the lot prior to the erection of the principal building/structure. The intent was that the original Primary Dwelling would be demolished (Demolition Permit No. 23-109248-00, which has been cancelled).

The following variance are requested:

1. The conversion of an existing principal dwelling to an Additional Dwelling Unit - Detached shall be permitted whereas the by-law only permits the conversion of an existing accessory building to an Additional Dwelling Unit - Detached.
2. An Additional Dwelling Unit - Detached shall be permitted in a front yard, whereas an Additional Dwelling Unit - Detached is only permitted in a Rear and/or interior side yard.
3. A maximum building height of 8.11 metre shall be permitted for an Additional Dwelling Unit - Detached instead of the maximum 6.0 metre Additional Dwelling Unit - Detached building height permitted.

Rural Hamilton Official Plan

The subject property is designated "Rural" on Schedule D – Rural Land Use Designations in the Rural Hamilton Official Plan. Policy D.4.1 specifies that uses permitted in the rural designation are limited to the uses permitted in Section D.2.0. Policy D.2.1 limits use to agricultural uses, agricultural-related commercial and agricultural-related industrial uses and on-farm secondary uses. Further Policy C.3.1.4 a) permits a maximum of one dwelling per lot in designations where residential uses are permitted. The proposed use is permitted in the Rural land Use Designation.

The following Rural Hamilton Official Plan policies are applicable:

- "C.3.1.2 e) An additional dwelling unit - detached shall be permitted in Rural Hamilton subject to the following: (OPA 39)
- i) One additional dwelling unit - detached may be permitted on a lot with a minimum lot area of 1.5 hectares.
 - ii) The primary dwelling and the additional dwelling unit – detached can achieve the minimum servicing requirements of Policy C.5.1 of this Plan.



- iii) The minimum lot area established in e) i) above may be reduced where it can be demonstrated that the minimum servicing requirements of Policy C.5.1 of this Plan can be achieved.

C.3.1.4 b) Except as permitted in Section D.2.1.1.6 of this Plan, where a second dwelling is required on a lot on a temporary basis, such as allowing an existing dwelling to be replaced, the City may permit both dwellings on the same lot for a specified period of time provided that: (OPA 26)

- i) provision is included in the Zoning By-law;
- ii) The temporary residence is provided with water and sewage disposal services that are acceptable to the City; and (OPA 5)
- iii) The owner enters into an agreement and posts financial securities with the City to ensure the removal of the temporary residence and its associated uses following the expiration of the temporary use.

Policy C.3.1.2 e) permits an additional dwelling unit detached given that the lot is 1.5 hectares. The existing lot is approximately 5.5 hectares in area. Planning staff defer to Source Water Protection regarding minimum servicing requirements. Policy C.3.1.4 b) speaks to the temporary basis of a secondary dwelling unit when a primary unit is being replaced. Planning staff refer to Building Division staff regarding Building Permit Nos. 23-132213 and 23-134213 for further comment. The intent of the Official Plan policy is for the temporary residence to cease.

Archaeological:

No comments.

Cultural Heritage:

No comments.

City of Hamilton Zoning By-law 05-200, as Amended by By-law 15-173

The subject property is zoned as Rural (A2) Zone in the City of Hamilton Zoning By-law 05-200. The A2 Rural zone permits the use of Single Detached Dwellings. Additional Dwelling Units are permitted in accordance with the requirements of Section 4.33.

Analysis

Variance 1



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1. The conversion of an existing principal dwelling to an Additional Dwelling Unit - Detached shall be permitted whereas the by-law only permits the conversion of an existing accessory building to an Additional Dwelling Unit - Detached.

The intent of the provision is to permit the conversion of legally existing accessory buildings, and that the conversion of an existing principal dwelling to an Additional Dwelling Unit - Detached is not permitted. In staff's opinion this proposal to convert the existing primary dwelling to be an Additional Dwelling Unit – Detached is neither minor nor maintains the general intent of the Rural Hamilton Official Plan or Zoning By-law. Staff note that a new principal dwelling has been proposed to replace the existing primary dwelling, which was permitted to remain on a temporary basis while the new principal dwelling was constructed. Staff have concerns with the proposal as the location and size of the proposed additional dwelling unit is not in character with the area.

Variance 2

2. An Additional Dwelling Unit - Detached shall be permitted in a front yard, whereas an Additional Dwelling Unit - Detached is only permitted in a Rear and/or interior side yard.

The intent of the provision is that an Additional Dwelling Unit – Detached, consistent with other accessory buildings and structures, is not permitted in the front yard and are to be exclusively in the rear and or interior side yard of a developable lot to remain incidental and subordinate to the principal dwelling. Based on the forgoing, staff are of the opinion that the proposal to permit an Additional Dwelling Unit – Detached in the front yard is neither minor nor maintains the general intent of the Zoning By-law as the structure would not remain subordinate to the principal dwelling.

Variance 3

3. A maximum building height of 8.11 metre shall be permitted for an Additional Dwelling Unit- Detached instead of the maximum 6.0 metre Additional Dwelling Unit- Detached building height permitted.

The intent of the maximum building height of an Additional Dwelling Unit - Detached, consistent with other accessory buildings and structures, is that they remain incidental and subordinate to the principal dwelling, and for also occupied structures to prevent concerns of overlook and shadowing impacts on neighbouring lands. When reviewing the variances cumulatively and their impacts staff are of the opinion that the proposed additional height for the Additional Dwelling Unit – Detached would not remain subordinate to the principal dwelling, which is neither minor nor maintains the general intent and purpose of the Zoning By-law.

Based on the forgoing policies staff recommend that the application be **Denied** as the proposal does not maintain the general intent and purpose of the Official Plan and Zoning By-law, is not minor, nor is it desirable for the appropriate development of the subject lands.



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Zoning:

Recommendation:	Comments Only
Proposed Conditions:	
Comments:	Requested variances are required to facilitate the conversion of an existing Single Detached Dwelling to an Additional Dwelling Unit – Detached
Notes:	

Development Engineering:

Recommendation:	Comments Only
Proposed Conditions:	N/A
Comments:	Provided that the existing drainage pattern is maintained we have no issues with this application.
Notes:	N/A

Building Engineering:

Recommendation:	Comments and Conditions/Notes
Proposed Conditions:	
Comments:	
Notes:	<p>Building Permit # 23-134409, issued on October 6, 2023, to install an inground sewage system to serve the single-family dwelling remains not finalized.</p> <p>Building Permit # 23-134213, issued on October 6, 2023, to construct a 2-storey, 333.8m² single-family dwelling remains not finalized.</p> <p>A building permit is required for the construction the proposed additional dwelling unit.</p> <p>Be advised that Ontario Building Code regulations may require specific setback and construction types.</p>

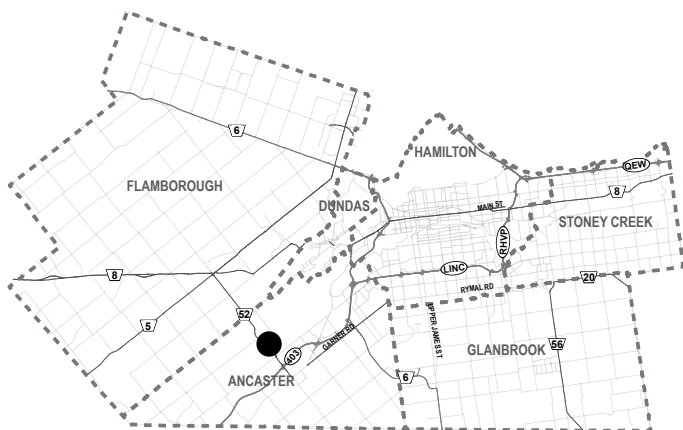
Transportation Planning:

Recommendation:	No Comments
Proposed Conditions:	
Comments:	
Notes:	

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



● Site Location



City of Hamilton

Committee of Adjustments

Subject Property



287 Highway 52 North, Ancaster
(Ward 12)

File Name/Number:

A-24:285

Date:

February 6, 2025

Technician:

DR

Scale:

N.T.S.

Appendix "A"



Hamilton

Planning and Economic Development Department