



Hamilton

STAFF COMMENTS

HEARING DATE: March 27, 2025

A-25:032 — 96 Eighth Road East, Stoney Creek

Recommendation:

Deny — Source Protection Planning

Deny — Development Planning

Proposed Conditions (if approved):

1. That the owner submits a Hydrogeological Report prepared by a qualified professional to the satisfaction of the Director, Hamilton Water. The Hydrogeological Report will be completed in support of the proposed Minor Variance, and will include: (i) wastewater assessment; (ii) water supply assessment; and, (iii) a site plan demonstrating that the minimum setback requirements in Section 8 of the Ontario Building Codes is maintained. The Hydrogeological Assessment will be completed in accordance with the City's Hydrogeological Guideline, and shall demonstrate that the proposed Additional Dwelling Units - Detached can be sustainably serviced privately for water and sewage, and without any off-site adverse impacts. (Development Planning)

Proposed Notes:

A building permit is required for the construction of the proposed of an Additional Dwelling Unit - Detached within the front yard of an existing single detached dwelling. (Building Engineering)

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 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



Hamilton

STAFF COMMENTS

HEARING DATE: March 27, 2025

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)



Development Planning:

Background

The purpose of the application is to facilitate the construction of an Additional Dwelling Unit – Detached within the front yard of a lot containing an existing single detached dwelling in the rural area.

The following variances are required:

1. An Additional Dwelling Unit – Detached shall be permitted on a lot containing a Single Detached Dwelling being 0.4 hectares whereas the by-law requires a minimum lot area of 1.5 hectares.
2. An Additional Dwelling Unit - Detached shall be permitted within the Front Yard instead of the requirement of only being permitted in a rear and/or interior side yard.

Provincial Planning Statement (2024)

- 4.3.2.5 Where a residential dwelling is permitted on a lot in a prime agricultural area, up to two additional residential units shall be permitted in accordance with provincial guidance, provided that, where two additional residential units are proposed, at least one of these additional residential units is located within or attached to the principal dwelling, and any additional residential units:
- a) comply with the minimum distance separation formulae;
 - b) are compatible with, and would not hinder, surrounding agricultural operations;
 - c) have appropriate sewage and water services;
 - d) address any public health and safety concerns;
 - e) are of limited scale and are located within, attached, or in close proximity to the principal dwelling or farm building cluster; and
 - f) minimize land taken out of agricultural production.

Lots with additional residential units may only be severed in accordance with policy 4.3.3.1.c).



Hamilton

STAFF COMMENTS

HEARING DATE: March 27, 2025

The above policy identifies that additional residential units shall be permitted where a residential dwelling is permitted and at least one of the units are to be located within or attached to the principal dwelling. Subsection c) and d) of this policy seeks to address concerns of private servicing through the introduction of an Additional Dwelling Unit – Detached and potential impacts to sewage and water services. Staff are not satisfied that the proposed Additional Dwelling Unit – Detached is consistent with subsection c) and d) above, given that the size of the lot does not meet the size requirements as stated in the Official Plan and implemented through the Zoning By-law. Based on the above Provincial Planning Statement policies, staff are of the opinion that the proposal is not consistent with the Provincial Planning Statement.

Urban Hamilton Official Plan

The subject property is designated as “Agriculture” on Schedule D – Rural Land Use Designations in the Rural Hamilton Official Plan. Policies D.2.1 among others are applicable. The subject lands are not identified as being located within a Rural Settlement area as found in Volume 2 of the Rural Hamilton Official Plan.

The below policies, among others, 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.”

Policy C.3.1.2 e) states that an Additional Dwelling Unit – Detached is permitted provided that the lot has a minimum area of 1.5 hectares. The policy further states that a minimum lot area may be reduced if it can be demonstrated that the minimum servicing requirements of Policy C.5.1 of the Plan can be achieved. The proponent has not submitted any materials demonstrating that the policies of Section C.5.1 have been met. A hydrogeological study as required through policy C.5.1 of the Rural Hamilton Official Plan would be required in order to demonstrate that the Additional Dwelling Unit – Detached is situated on a large enough lot to support the required private servicing and meet the City’s private servicing requirements as indicated in Section C.5.1 of the Rural Hamilton Official Plan.



Hamilton

STAFF COMMENTS

HEARING DATE: March 27, 2025

The following additional policies are applicable related to private servicing.

“C.5.1.1

No draft, conditional, or final approval of development proposals shall be granted by the City for any development in Rural Hamilton that could impact existing private services or involves proposed private services until the development proposal has complied with all of the following:

- a) Prior to or at the time of application for a proposal that could impact existing private services or involves proposed private services, development proponents shall submit complete information regarding existing or proposed private water and wastewater services. This information shall be complete to the satisfaction of the City. Where sufficient information is not available to enable a full assessment of on-site and off-site water supply and/or sewage disposal impacts or if the proponent does not agree with the City’s calculations, the proponent shall be required to submit a hydrogeological study report completed in accordance with Section F.3.2.5 – Hydrogeological Studies of this Plan and Hydrogeological Study Guidelines as maybe approved or amended from time to time.
- b) Any information submitted or study required in Policy C.5.1.1 a) shall be completed to the satisfaction of the City in accordance with Section F. 3. 2.5 of this Plan and Hydrogeological Study Guidelines as may be amended from time to time. The City may request or conduct a peer review of the study or servicing information, which shall be completed by an agency or professional consultant acceptable to the City and retained by the City at the applicant’s expense.
- d) Development of a new land use or a new or replacement building on an existing lot that require(s) water and/or sewage servicing, may only be permitted where it has been determined by the requirements of Policies C.5.1.1 a) and b) that the soils and size of the lot are sufficient to accommodate the water system and sewage disposal system within acceptable levels of on-site or off-site impacts including nitrate impact, and shall include sufficient land for a reserve discharge site or leaching bed. The maximum lot size shall be in accordance with F.1.14.2.1 f).”

Based on subsection a) b) and d), above, a hydrogeological study is required to be submitted to support the proposal. In addition, the proponent is required to demonstrate that there is sufficient land to accommodate private servicing including nitrate impacts and sufficient land for a reserve discharge site or leaching bed. Development Planning staff defer further comments regarding policy C.5.1.1 to Source Water Protection Staff.

The subject ±0.4 hectare lot is undersized to accommodate a Additional Dwelling Unit – Detached and the proponent has not submitted materials demonstrating that the proposed reduced lot size is appropriate from a private servicing perspective. Accordingly, the proposal does not conform to the Rural Hamilton Official Plan.



Hamilton

Archaeology

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) In areas of pioneer Euro-Canadian settlement; and
- 2) Along historic transportation routes.

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.

Cultural Heritage

No Comments

City of Hamilton Zoning By-law 05-200

The subject property is zoned “A1” (Agriculture) in the City of Hamilton Zoning By-law No. 05-200. Additional Dwelling Unit(s) – Detached are permitted subject to criteria.

Analysis

Variance 1

1. An Additional Dwelling Unit – Detached shall be permitted on a lot containing a Single Detached Dwelling being 0.4 hectares whereas the by-law requires a minimum lot area of 1.5 hectares.

In accordance with the above policies, the intent of this provision is to prevent Additional Dwelling Units – Detached from being permitted on lots that are undersized and are unable to sufficiently support private servicing. The applicant did not provide sufficient information in accordance with Section C.5.1 of the Rural Hamilton Official Plan to support the reduction in the required lot size. Further, the proposed decrease in minimum lot area is not minor and does not take into account the impacts to private servicing and the existing private servicing systems that already exist on the subject lands. Based on the identified RHOP policies, staff recommend denial of variance 1.

Variance 2

2. An Additional Dwelling Unit - Detached shall be permitted within the Front Yard instead of the requirement of only being permitted in a rear and/or interior side yard.



Hamilton

The intent of this provision is to ensure a consistent streetscape and to prevent overdevelopment in the front yard as well as ensure that the primary dwelling remains the dominant feature from the streetscape. In accordance with variance 1 and the applicable official plan policies staff are unable to support the requested variance 2 as the existing lot is too small in area and does not conform to the applicable Rural Hamilton Official Plan policies identified above that require a minimum of 1.5 hectare lot size for Additional Dwelling Units – Detached. Staff recommend denial of variance 2.

Based on the forgoing staff are unable to support the proposed variances and recommend that they be denied, in particular as the proposed variances do not meet the general intent and purpose of the Rural Hamilton Official Plan or Zoning By-law No. 05-200. The proposed reduction in lot area is also not considered minor as the applicant has not demonstrated that private servicing and public health and safety impacts have been appropriately identified and mitigated. Lastly, the proposed variances are not considered desirable for the appropriate development of the subject lands. Staff defer further concerns relating to private servicing to Source Water Protection Staff.

Based on the above analysis staff recommend that the application be **denied**.

Zoning:

Recommendation:	Comments Only
Proposed Conditions:	
Comments:	The subject property falls within a Niagara Peninsula Conservation Authority Regulated Area. Please contact the Niagara Peninsula Conservation Authority at <u>(905) 692-3228</u> prior to any development.
Notes:	

Development Engineering:

Recommendation:	No Comments
Proposed Conditions:	
Comments:	
Notes:	

Building Engineering:

Recommendation:	Comments Only
Proposed Conditions:	
Comments:	
Notes:	A building permit is required for the construction of the proposed of an Additional Dwelling Unit - Detached within the front yard of an existing single detached dwelling.

Transportation Planning:



Hamilton

Recommendation:	No Comments
Proposed Conditions:	
Comments:	
Notes:	

Source Protection Planning:

Recommendation:	Deny
Proposed Conditions:	
Comments:	<p>Source Protection Planning understands that the applicant is seeking a minor variance of a minimum lot area of 0.4 ha instead of the minimum lot area of 1.5 ha for the proposal of a detached additional dwelling unit on an existing 0.4 ha lot. Our comments are as follows:</p> <ol style="list-style-type: none"> 1. The current lot size of 0.4ha is considered insufficient for an additional dwelling unit, as our desktop review indicates pollution from the lot's septic system would not meet policies within Rural Hamilton Official Plan C.5.1 and put neighboring properties at increased of water quality / health risk. 2. The lot size does not meet policies within Section 4.33.4 a) of the City of Hamilton's Comprehensive Zoning By-law No. 0.5-200, as the minimum lot size for an Additional Dwelling Unit – Detached in the S1 Zone is 1.5 ha. <p>Therefore, Source Protection Planning cannot support the application.</p>
Notes:	

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

Danelski, Alexander

From: Kyle Riley <kriley@npca.ca>
Sent: Wednesday, March 12, 2025 9:57 AM
To: Committee of adjustment
Subject: Re: ATTN: Jamilia Sheffield: NPCA March 27, 2025 COA Comments

External Email: Use caution with links and attachments

Hello Mr. Danelski,

Apologies for the errors.

The first set of comments are towards 96 Eighth Road East A-25:032.

The second set of comments are for both A-25-023 and B-25:010.

The third set of comments are for 476 Book Road East A-24:258.

If there is any further uncertainty please do not hesitate to contact the undersigned.

Best regards,



Kyle Riley

Watershed Planner

Niagara Peninsula Conservation Authority (NPCA)

3350 Merrittville Highway, Unit 9, Thorold, Ontario L2V 4Y6

(O) 905.788.3135 Ext 252

(Cell) 905.933.2541

www.npca.ca

kriley@npca.ca

For mapping on features regulated by the NPCA please go to our GIS webpage at <https://gis-npca-camaps.opendata.arcgis.com/> and utilize our Watershed Explorer App or GIS viewer.

The NPCA completed its [Watershed-based Resource Management](#) and [Conservation Area](#) Strategies, paving the way for sustainable conservation across the Niagara Peninsula watershed. It's [Watershed Natural Asset Analysis and Valuation](#) for the Niagara Peninsula watershed offers new insights that redefine how we view nature. **Explore them today!**

From: Committee of adjustment <cofa@hamilton.ca>

Sent: Wednesday, March 12, 2025 9:48 AM

To: Kyle Riley <kriley@npca.ca>; Committee of adjustment <cofa@hamilton.ca>

Subject: RE: ATTN: Jamilia Sheffield: NPCA March 27, 2025 COA Comments

Good morning, Ms. Riley:

Thank you for your comments.

Just to be clear could we reconcile the addresses and file names for the files for which you have provided comments?

Your e-mail refers to:

“96 Eighth Road East A-25:031”

By that, do you intend your comments to apply to

96 Eighth Road East A-25:032

or

97 Dartnall Road A-25:031?

Likewise, your e-mail refers to:

“476 Book Road East B-25:010”

Do you intend your comments for:

476 Book Road East A-24:258

or

20 Saveryn Road B-25:010

And when your e-mail refers to

“20 Saveryn Road A-25-023” and notes that “The Applicants are proposing to sever two lots”

Do you intend your comments to be applied solely to the variance file name for this address (A-25-023), the severance file name for this address (B-25:010) or both?

Just want to have our records consistent. Please let me know.

Thanks,

Alexander Danelski

Development Clerk (Temporary Position)

Committee of Adjustment

City of Hamilton



From: Kyle Riley <kriley@npca.ca>

Sent: Wednesday, March 12, 2025 9:13 AM

To: Committee of adjustment <cofa@hamilton.ca>

Subject: ATTN: Jamilia Sheffield: NPCA March 27, 2025 COA Comments

External Email: Use caution with links and attachments

Good day,

The Niagara Peninsula Conservation Authority (NPCA) has reviewed the subject matter forming Hamilton's March 27th COA Agenda and offers the following comments.

The following addresses are within the NPCA's Watershed.

96 Eighth Road East A-25:031 -

The Applicants seek Minor Variances to permit a detached Accessory Dwelling Unit within a front yard, and to allow for the ADU to exist on a .4 hectare lot where 1.5 hectares is required.

There are currently no features regulated by the NPCA which traverse the subject address. As such, the NPCA offers No Objections to development at this address.

There are no Planning or Permitting fees required for our review of this Application.

20 Saveryn Road A-25-023 -

The Applicants are proposing to sever two lots from the existing address known as 20 Saveryn Road. A number of Minor Variances are required to formalize the retained parcel, including permitting a minimum lot area of 339 m² where 630 m² is required, allowing a minimum lot width of 10.7m where 18m is required, permitting a minimum side yard of 1.2m where 2m is required, permitting a minimum rear yard of 2m where 3m is required, and finally permitting 45% lot coverage where 35% is allowed.

There are no features regulated by the NPCA which traverse the subject address. As such, the NPCA offers No Objections to development as shown at this address.

There are no Planning or Permitting fees required by the NPCA.

476 Book Road East B-25:010 -

The Applicants seek a Minor Variance to expand the existing legal non-conforming single by adding an Accessory Detached Dwelling Unit to the site. Minor Variances are required to remove the H3 holding provision that no development or site alteration be undertaken at the site. Minor Variances are also needed to allow for a gross floor area of 164.6 m², where a maximum of 75 m² is permitted, and to allow for the ADU to reach a total height of 6.9 m, where 6m is allowed.

There are currently no features regulated by the NPCA which traverse the subject site.

As such, the NPCA offers No Objections to proposed development at this address.

There are no fees required for our comments on this file.

Thank you for circulating this Agenda to the NPCA for our comments.

Please do not hesitate to contact the undersigned if you have any questions on the above.

Best regards,



Kyle Riley

Watershed Planner

Niagara Peninsula Conservation Authority (NPCA)

3350 Merrittville Highway, Unit 9, Thorold, Ontario L2V 4Y6

(O) 905.788.3135 Ext 252

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For mapping on features regulated by the NPCA please go to our GIS webpage at <https://gis-npca-camaps.opendata.arcgis.com/> and utilize our Watershed Explorer App or GIS viewer.

The NPCA completed its [Watershed-based Resource Management](#) and [Conservation Area](#) Strategies, paving the way for sustainable conservation across the Niagara Peninsula watershed. It's [Watershed Natural Asset Analysis and Valuation](#) for the Niagara Peninsula watershed offers new insights that redefine how we view nature. **Explore them today!**

ArcGIS Web Map



3/11/2025, 10:34:34 AM

1:1,128

SWOOP 2020 NPCA

- Red: Band_1
- Green: Band_2
- Blue: Band_3

Roads

WRIP Quaternary Watersheds (10K)

NPCA APPROXIMATE REGULATION LANDS

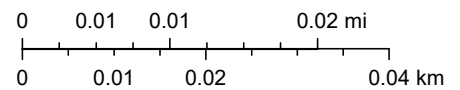
CityView Application Views

Assessment Parcels

2K Hydrography

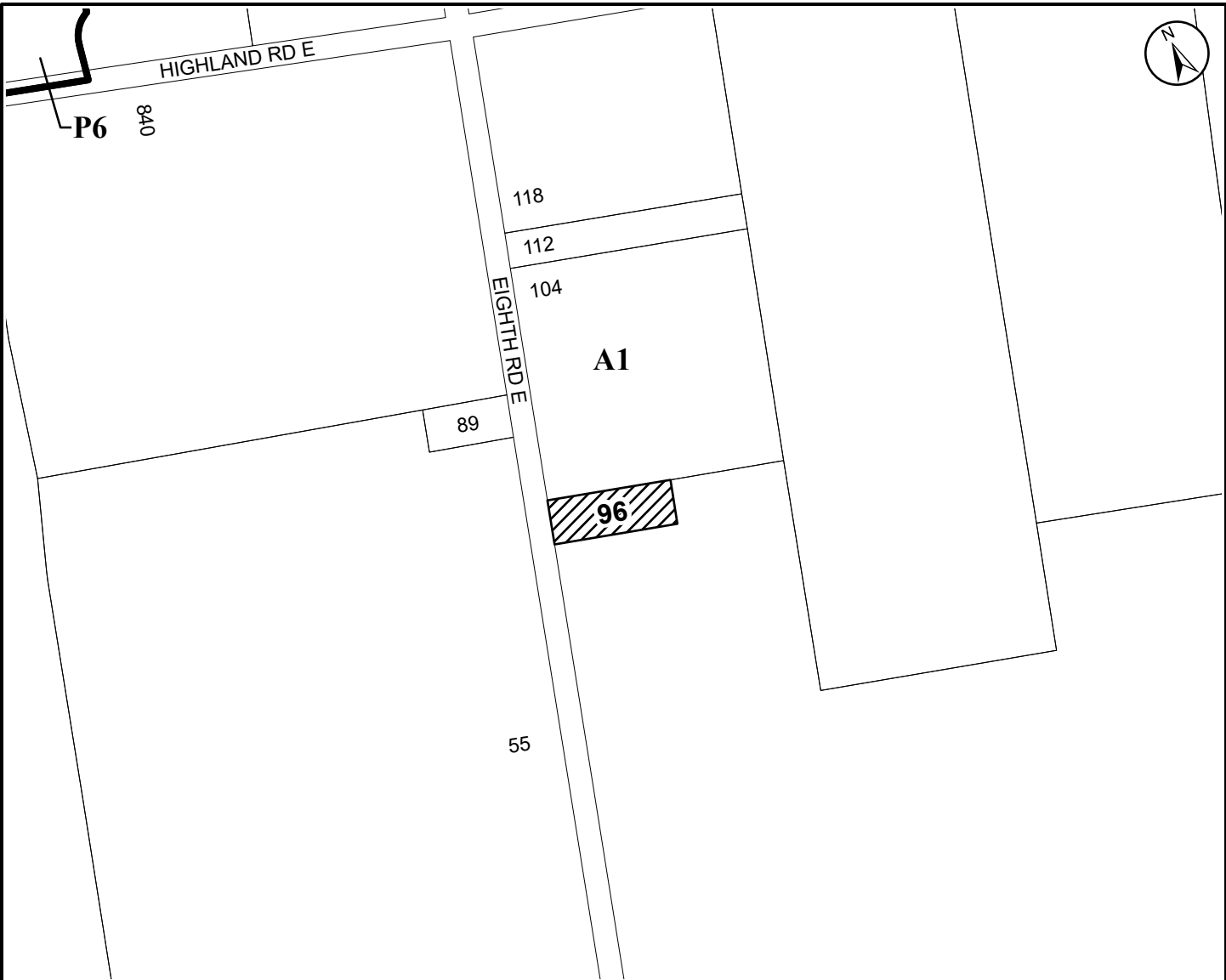
Niagara Region Ortho 2023

- Red: Red
- Green: Green
- Blue: Blue

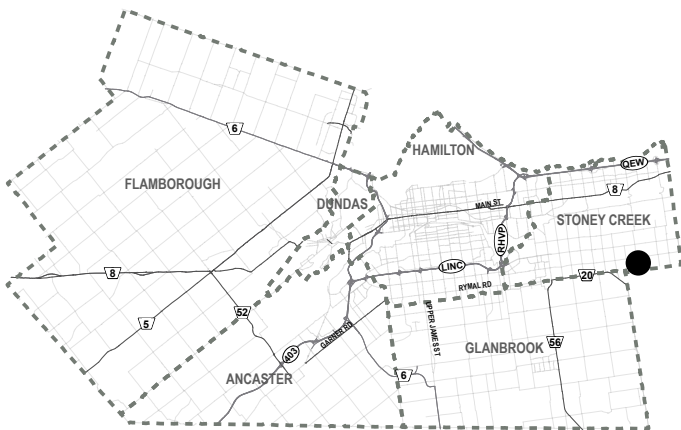


NPCA, Sources: Esri, HERE, Garmin, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), (c) OpenStreetMap contributors, and the GIS User Community

Web AppBuilder for ArcGIS



● Site Location



City of Hamilton

Committee of Adjustments

Subject Property



96 Eighth Road East, Stoney Creek
(Ward 9)

File Name/Number:
A-25:032

Date:
March 11, 2025

Technician:
DR

Scale:
N.T.S.

Appendix "A"



Hamilton