

B-24:67 (47 & 49 Ontario Ave., Hamilton)

Recommendation

- Approve

Proposed Conditions

1. That the owner receives final approval for Minor Variance application A-24:209, to the satisfaction of the Director of Development Planning.
2. That the owner shall investigate the noise levels on the severed lands and determine and implement the noise control measures that are satisfactory to the City of Hamilton in meeting the Ministry of Environment, Conservation and Parks (MECP) recommended sound level limits. An acoustical report prepared by a qualified Professional Engineer containing the recommended noise control measures shall be submitted to the satisfaction of the City of Hamilton, Director of Planning and Chief Planner. Should a peer review of the acoustical report be warranted, all associated costs shall be borne by the owner and shall be submitted to the satisfaction of the City of Hamilton, Director of Development Planning.

Proposed Notes

N/A

Development Planning:

Background

	Frontage	Depth	Area
SEVERED LANDS (49 Ontario Ave):	8.29 m±	27.37 m±	230.52 m ² ±
RETAINED LANDS (47 Ontario Ave):	8.56 m±	27.456 m±	231.17 m ² ±

The purpose of Consent to Sever Application B-24:67 is to permit the conveyance of a parcel of land to create a new residential building lot and to retain a parcel of land containing an existing dwelling. The existing garage, deck stairs and shed will be demolished to facilitate this application.

Staff note that related prior Consent to Sever and Minor Variance applications HM/B-22:119 and HM/A-22:357 were approved on December 8, 2022. HM/A-22:357 granted the following variances:

Retained Lands (47 Ontario Avenue)



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1. A minimum lot width of 8.56 metres shall be provided instead of the minimum required lot width of 9.0 metres.
2. A minimum lot area of 231.17 square metres shall be provided instead of the minimum required lot area of 270.0 square metres.

Severed Lands (49 Ontario Avenue)

1. A minimum lot width of 8.3 metres shall be provided instead of the minimum required lot width of 9.0 metres.
2. A minimum lot area of 230.72 square metres shall be provided instead of the minimum required lot area of 270.0 square metres.
3. A minimum of 1 parking space shall be provided instead of the required 2 parking spaces for a single detached dwelling.
4. Parking spaces shall be located a minimum distance of 0.0 metres to the streetline instead of the required minimum parking distance of 5.8 metres from the streetline.
5. Parking spaces shall be permitted within the required front yard instead of the requirement that no parking shall be permitted in a required front yard.

Staff note that the proposed use on the severed lands (49 Ontario Avenue) has changed from a single detached dwelling to a fourplex dwelling. Therefore, additional variances are required to facilitate the development. Minor Variance application A-24:209 was submitted to request relief of the zoning regulations regarding a fourplex in the Low Density Residential – Small Lot (R1a) Zone on October 22, 2024. The following variances were granted by the Committee of Adjustment:

Lands to be Retained (47 Ontario Avenue)

1. A deck shall be permitted to encroach 0.73 metres into a minimum required southerly side yard instead of the maximum permitted encroachment of 0.6 metres.

Lands to be Severed (49 Ontario Avenue)

1. A minimum lot area of 230 square metres shall be permitted, instead of the minimum required lot area of 300.0 square metres.



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2. A minimum lot width of 8.28 metres shall be permitted, instead of the minimum required lot width of 10.0 metres.
3. The minimum aggregate setback from a side lot line shall be 2.62 metres, instead of the minimum required aggregate setback of 3.5 metres.
4. A deck shall be permitted to encroach 3.7 metres into the minimum required rear yard, instead of the maximum permitted encroachment of 1.5 metres.
5. An accessory building ("Frame Garage") shall be permitted to be erected prior to the erection of a principle building or structure, instead of the requirement that an accessory building shall not be erected prior to the erection of a principle building or structure on the lot.

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. Policies B.2.4.1.4, B.2.4.2.2, B.3.6.3.7, E.3.4.3 and F.1.14.3.1, amongst others, are applicable and permit the proposed fourplex dwelling.

Policy F.1.14.3.1 permits new lots for residential uses in the "Neighbourhoods" designation subject to the following criteria:

- "a) The lots comply with the policies of this Plan, including secondary plans, where one exists;
- b) The lots comply with existing Neighbourhood Plans;
- c) The lots are in conformity with the Zoning By-law or a minor variance is approved;
- d) The lots reflect the general scale and character of the established development pattern in the surrounding area by taking into consideration lot frontages and areas, building height, coverage, mass, setbacks, privacy and overview;
- e) The lots are fully serviced by municipal water and wastewater systems; and,
- f) The lots have frontage on a public road."



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Staff note that the proposed lots comply with the minimum lot frontage and area requirements of the Zoning By-law with the approval of Minor Variance applications HM/A-22:357 and A-24:209, have frontage on public roads, and are similar in character, scale and the established development pattern of the area and are serviced by municipal water and wastewater services.

Policies B.2.4.1.4 and B.2.4.2.2 provide criteria residential intensification within the “Neighbourhoods” designation. These criteria include, but are not limited to, the compatibility of the proposed development with the surrounding area in terms of scale, massing, setbacks building separations, built form and character; how the proposed development contributes to maintaining and achieving a range of dwelling types and tenures; how the proposed development might impact adjacent land uses in terms of shadowing, overlook and provision of amenity space.

Staff note that the proposed fourplex dwelling is to be three storeys in height with side yard setbacks of 1.21 metres and 1.43 metres. The proposed lot area and width for the severed lands is 230.72 square metres and 8.29 metres. The predominant built form along Ontario Avenue is approximately two and a half to three storeys in height with generally close side yard setbacks. Similarly, neighbouring properties have lot areas and widths comparable to that of the severed lands, particularly 45 Ontario Avenue which contains an existing triplex.

Staff are of the opinion that the proposed fourplex dwelling is generally compatible with the scale, massing and character of the neighbourhood and conforms with Policies B.2.4.1.4 and B.2.4.2.2.

Policy B.3.6.3.7 b) requires a noise feasibility study, detailed noise study or both for residential developments within 400 metres of a major arterial road, as identified on Schedule C – Functional Road Classification. The subject lands are located within 400 metres of Main Street East, which is identified as a major arterial road on Schedule C – Functional Road Classification of the Urban Hamilton Official Plan. Therefore, staff are recommending a condition requiring a noise study be provided to confirm conformity with the policies regarding sensitive land use developments.

Based upon review of the above policies and the materials provided in support of this severance application, staff are of the opinion that the proposed severance meets the intent of the Urban Hamilton Official Plan.

Stinson Neighbourhood Plan

The subject lands are identified as “Single and Double” on Map 6601 of the Stinson Neighbourhood Plan.

Archaeology

No comments.



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Cultural Heritage

The subject property, located at 47 & 49 Ontario Avenue, is listed on the City's Inventory of Heritage Properties and is located within the Stinson Established Historical Neighborhood and Ontario Avenue Cultural Heritage Landscape.

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:

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

The proponent proposes to permit the conveyance of a parcel of land to create a new residential building lot and to retain a parcel of land containing an existing dwelling. The existing garage, deck stairs and shed will be demolished to facilitate this application.

Staff have reviewed the application and are of the opinion that given the property's status as an Inventoried property and its location within the Stinson Established Historical Neighbourhood, staff strongly encourage that the applicant utilize massing and materials (e.g., brick cladding) compatible with the existing and adjacent built heritage resources.

Staff have no further comments on the application as circulated.

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 fourplex dwelling are permitted uses.

The retained lands (47 Ontario Avenue) are required to have a minimum area of 231.17 square metres and a minimum frontage of 8.56 metres, as approved in Minor Variance application HM/A-22:357. The severed lands (49 Ontario Avenue) are required to have a minimum area of 230.72 square metres and a minimum frontage of 8.3 metres, as approved in Minor Variance application A-24:209. The proposed retained and severed lands both meet their respective required minimum lot areas and widths.

Staff recommend the proposed severance be approved, subject to the recommended conditions.



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STAFF COMMENTS

HEARING DATE: November 26, 2024

Zoning:

Recommendation:	Comments and Conditions/Notes
Proposed Conditions:	<ol style="list-style-type: none">1. The owner/applicant shall receive final and binding approval of Minor Variance Application No. A-24:206 (Planning Division – Zoning Review Section).2. The owner shall demolish all or an appropriate portion of any buildings straddling the proposed property line, to the satisfaction of the Planning and Economic Development Department (Planning Division – Zoning Review Section). May be subject to a demolition permit issued in the normal manner.3. The owner shall submit survey evidence that the lands to be severed and the lands to be retained, including the location of any existing structure(s), parking and landscaping conform to the requirements of the Zoning By-Law or alternatively apply for and receive final approval of any variances from the requirements of the Zoning By-Law as determined necessary by the Planning and Economic Development Department (Planning Division – Zoning Examination Section).
Comments:	<ol style="list-style-type: none">1. The applicant should obtain an appropriate municipal address for the proposed parcel(s) from the Legislated Approvals and Staging of Development Section of the Planning and Economic Development Department prior to the issuance of a building permit.2. Demolition of all or an appropriate portion of the building(s) straddling the proposed property line shall be a condition of consent. Such demolition is subject to a demolition permit issued in the normal manner.3. In order to clear conditions, the applicant will be required to make an application for a Zoning Compliance Review and pay the relevant fees.4. This application is subsequent to Minor Variance Application No. 24:206 which was granted with conditions on October 22, 2024, and is required to facilitate the proposed consent/severance application. The decision of the Committee became final and binding on November 12, 2024. The following variance(s) were granted for zoning compliance of the lands to be conveyed/retained: <u>Portion of Lands to be Retained:</u><ol style="list-style-type: none">1. A deck shall be permitted to encroach 0.73 metres into minimum required southerly side yard, instead of the maximum permitted encroachment of 0.6 metres.



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	<p><u>Portion of Lands to be Conveyed:</u></p> <ol style="list-style-type: none"> 1. A minimum lot area of 230 square metres shall be permitted, instead of the minimum required lot area of 300.0 square metres; 2. A minimum lot width of 8.28 metres shall be permitted, instead of the minimum required lot width of 10.0 metres; 3. The minimum aggregate setback from a side lot line shall be 2.62 metres, instead of the minimum required aggregate setback of 3.5 metres; 4. A deck shall be permitted to encroach 3.70 metres into the minimum required rear yard, instead of the maximum permitted encroachment of 1.5 metres; 5. An accessory building ("Frame Garage") shall be permitted to be erected prior to the erection of a principle building or structure, instead of the requirement that an accessory building shall not be erected prior to the erection of a principle building or structure on the lot.
Proposed Notes:	<ol style="list-style-type: none"> i. This application is subsequent to Land Severance / Consent Application No. HM/B-22:119, which was granted with conditions for the creation of a new lot for residential purposes. ii. Minor Variance Application No. HM/A-22:357 approved several variances for both the portion of the lands to be severed and the portion of the lands to be retained. However, as the intended use has changed on the portion of the lands to be severed from a single detached dwelling to a fourplex dwelling, the approved variances are not applicable to the severed lands. iii. Please note that the applicant advised via email dated September 24th, 2024, that the location of the proposed accessory building indicated as "Shed – Waste/Storage" on the portion of the lands to be severed, will be revised to comply with all required building setbacks, and therefore a variance to the required setbacks has not been requested.

Development Engineering:

Recommendation:	Approve with Conditions
Proposed Conditions:	That the Owner must enter into with the City of Hamilton and register, a Consent Agreement , having an administrative fee of \$5,065.00 (includes grading plan review) to address issues including but not limited to: lot grading and drainage to a suitable outlet on the conveyed and retained parcels (detailed grading plan required), erosion and sediment control measures (to be included on the grading plan); cash payment requirements for items such as any outstanding servicing



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	cost for the existing municipal services adjacent to the property, street trees (City policy requires one (1) street tree/lot, inspection of grading, stormwater management infrastructure and securities for items that may include: lot grading (\$10,000.00 grading security), water and sewer services inspections, driveway approaches, relocation of any existing infrastructure (such as hydrants) and any damage during construction (unknown costs at this time), to the satisfaction of the City's Director of Development Engineering.
Comments:	<ul style="list-style-type: none"> According to our GIS records, the existing municipal infrastructure fronting the subject property is summarized as follows: Ontario Avenue: <ul style="list-style-type: none"> ➤ 150mm ø Watermain ➤ 375mm ø Storm Sewer @ ±1.4% ➤ 300mm ø Combined Sewer @ ±2.2% The subject property has been previously reviewed under severance application HM/B-22:119. From a grading and servicing perspective, the scope of work appears to remain the same. As such, Development Engineering will require a Consent Agreement to facilitate the severance. Detailed grading review will be conducted as part of this process. Separate and independent services are required for each parcel of land in accordance with the Sewer and Drain By-Law 23-234 and Water Works By-Law 23-235.
Proposed Notes:	

Building Engineering:

Recommendation:	Comments and Conditions/Notes
Proposed Conditions:	The owner shall comply with Ontario Building Code requirements regarding spatial separation distances of any structures. Compliance to be confirmed by the Planning and Economic Development Department (Building Division – Plan Examination Section).
Comments:	
Proposed Notes:	In order to clear conditions, the applicant will be required to make application for Ontario Building Code compliance and pay the relevant fees.

Transportation Planning:

Recommendation:	Approve
Proposed Conditions:	
Comments:	
Proposed Notes:	



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Forestry:

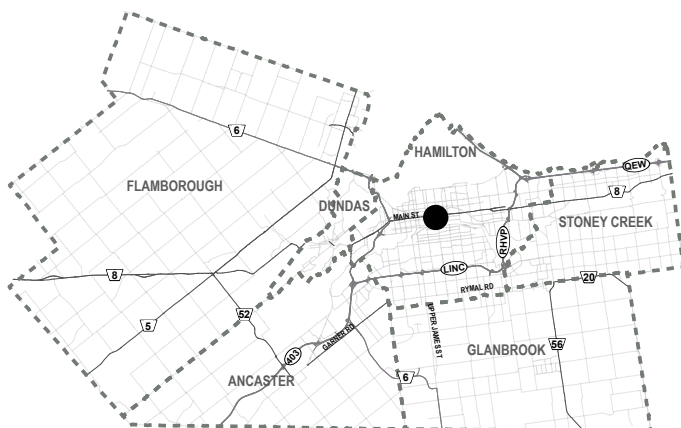
Recommendation:	Approve
Proposed Conditions:	No conditions required.
Comments:	There are no public tree assets impacted by the proposed conveyance.
Proposed Notes:	

Legislative Approvals:

Recommendation:	Comments and Conditions/Notes
Proposed Conditions:	
Comments:	The lands to be retained (Part 1) will remain as 47 Ontario Avenue (Hamilton) . The lands to be conveyed (Part 2) will remain as 49 Ontario Avenue (Hamilton) .
Proposed Notes:	We ask that the Owner agrees to physically affix the municipal numbers or full addresses to either the buildings or on signs in accordance with the City's Sign By-law, in a manner that is clearly visible from the road.



Site Location



City of Hamilton

Committee of Adjustments

Subject Property

47 & 49 Ontario Avenue, Hamilton (Ward 3)



Lands to be retained



Lands to be severed and conveyed

File Name/Number:

B-24:67

Date:

November 13, 2024

Technician:

SH

Scale:

N.T.S.

Appendix "A"



Hamilton

Planning and Economic Development Department