

A-25:025 — 856 Concession 5 West, Flamborough

**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 proposed development be generally consistent with the site sketch submitted with this application, to the satisfaction of the Director of Development Planning.
3. The MCFN require, at minimum, a Stage 1 Archaeological Assessment be carried out and reports to be forwarded to [payton.mitchell@mncfn.ca](mailto:payton.mitchell@mncfn.ca). (Mississaugas of the Credit First Nation)

**Proposed Notes:**

Building Permit # 25-101133, issued on April 15, 2025, for the pool enclosure for the proposed in-ground pool remains not finalized.

A building permit is required for the construction of the proposed accessory structure within the rear yard of an existing single-family dwelling.

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

**“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



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**STAFF COMMENTS**

**HEARING DATE: May 29, 2025**

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)." (Development Planning)

## **Development Planning:**

### **Background**

The purpose of Minor Variance application A-25:025 is to permit the construction of an accessory building (pole barn) within the rear yard of an existing single detached dwelling.

Staff note that this application was previously tabled at the March 27, 2025 Committee of Adjustment hearing to allow staff additional time to meet with the applicant and discuss the proposal. Staff conducted a site visit on April 11, 2025.

### **Analysis**

#### **Greenbelt Plan**

The subject lands are designated “Protected Countryside” and “Greenbelt Natural Heritage System” under the Greenbelt Plan. Section 3.2.2.3 permits new development or site alteration within the Natural Heritage System if it is demonstrated that the proposal meets several criteria including, but not limited to: that there will be no negative impacts on key natural heritage or hydrologic features or their functions; connectivity between key natural heritage and hydrologic features is maintained or enhanced; that the disturbed area does not exceed 25% of the total developable area and impervious surfaces do not exceed 10% of the total developable area.

Staff note that the proposed new accessory building is located within the Greenbelt Natural Heritage System. Based upon a site visit and the implementation of the recommended conditions, staff are satisfied that the criteria found in Section 3.2.2.3 are met.

#### **Rural Hamilton Official Plan**

The subject lands are designated “Rural” and in Schedule D – Rural Land Use Designations of the Rural Hamilton Official Plan. Policies C.3.1.4, D.4.1 and Section C.2.0, amongst others, is applicable and permits the existing single detached dwelling.

Schedule B – Natural Heritage System of the Rural Hamilton Official Plan identifies Core Areas on the subject lands and adjacent lands, and that a portion of the subject lands are located within the Greenbelt Natural Heritage System. These Core Areas have been identified as the Hayesland Alvar Environmentally Significant Area, Significant Woodland, the Hayesland Christie Wetland Complex Provincially Significant Wetland and a watercourse.

#### **Natural Heritage**

The Core Areas associated with the property at 856 Concession 5 West have been identified as Hayesland Alvar Environmentally Significant Area and Significant Woodland. Additional Core Areas have been identified adjacent to the subject property and include Hayesland Christie Wetland Provincially Significant Wetland (PSW), Significant Woodland, and a watercourse. The proposed development is located within the Conservation/Hazard Land Rural (P7) Zone. The intent of this zone



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is to protect the natural heritage features and their functions. In addition, policies within the Rural Hamilton Official Plan (policy C.2.3.3) indicate that any development or site alteration within or adjacent to the Core Areas shall not negatively impact their environmental features or ecological functions.

Based on a site visit April 11, 2025, it was observed that the proposed development would be located within an area that is currently disturbed (i.e., Quonset hut, area for parking, driveway) and there is no existing vegetation (gravel/dirt parking area). In addition, options to locate the development outside of the Conservation/Hazard Land Rural (P7) Zone were highlighted by the landowner, however, these do present different challenges (i.e., existing septic system, creation of a new driveway through a potential wetland).

There are existing trees located directly adjacent to the disturbed area and along the driveway. A Tree Protection Plan prepared by Urban Arboretum (Kyle Berwick; certified arborist) April 30, 2025, has been provided by the applicant. Based on this Plan, trees will not be removed, however, they will need to be protected during construction activities. To address technical comments associated with this Plan as well as implementation of the Plan, an updated Tree Protection Plan is required.

The following conditions should be considered:

- Development is to be limited to the area that is currently disturbed.
- 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).

### **Archaeology**

The subject property meets four (4) 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;
- 2) Within 300 metres of a primary watercourse or permanent waterbody, 200 metres of a secondary watercourse or seasonal waterbody, or 300 metres of a prehistoric watercourse or permanent waterbody;
- 3) In areas of pioneer Euro-Canadian settlement; and
- 4) 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.



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**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 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

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

The subject lands are zoned Rural (A2) Zone and Conservation/Hazard Land Rural (P7) Zone in City of Hamilton Zoning By-law No. 05-200. The existing single detached dwelling is permitted within the Rural (A2) Zone, but the proposed new accessory building is not permitted within the Conservation/Hazard Land Rural (P7) Zone.

### **Variance 1**

1. An accessory building shall be permitted to be constructed whereas no new buildings or structures shall be permitted in a Conservation/Hazard Land Rural (P7) Zone.

The intent of this provision is to prevent new development to ensure the maintenance and conservation of natural heritage features and hazard lands.

Staff note that the eastern half of the property is zoned Rural (A2) Zone and the western half is zoned Conservation/Hazard Land Rural (P7) Zone. The proposed location of the new accessory building is within the Conservation/Hazard Land Rural (P7) Zone.



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**STAFF COMMENTS**

**HEARING DATE: May 29, 2025**

Staff further note that the location of the proposed structure is within a previously disturbed area. Staff are recommending conditions to ensure development is limited to this disturbed area and to ensure trees as well as other natural features on-site are protected. Provided these conditions are met, staff are satisfied that the natural heritage features on the subject property will be protected.

Therefore, it is staff's opinion that Variance 1 maintains the general intent of the Rural Hamilton Official Plan and Zoning By-law, is desirable for the appropriate use or development of the land and is minor in nature. Staff support the variance, subject to the recommended conditions.

**Variances 2 and 3**

2. A maximum building height of 7.1 metres shall be permitted for an accessory building instead of the maximum permitted building height of 4.5 metres for all accessory buildings.
3. A maximum of 303 square metres combined lot coverage for all accessory buildings shall be permitted instead of the permitted maximum of 45 square metres or 7.5% of the lot area, whichever is the lesser.

The intent of these provisions is to limit the size of accessory buildings to ensure they remain subordinate to the principal use or buildings.

Staff note that the existing dwelling has an area of 343.74 square metres and a height of 9.1 metres. Additionally, the existing accessory structure has an area of 80 square metres and a height of 4.6 metres. The proposed accessory structure is to have an area of 222.96 square metres and a height of 7.1 metres. The proposed structure is smaller than the principal dwelling and both accessory structures combined would maintain a lesser area than the principal dwelling.

Therefore, it is staff's opinion that Variances 2 and 3 maintain the general intent of the Rural Hamilton Official Plan and Zoning By-law, are desirable for the appropriate use or development of the land and are minor in nature. Staff support the variances.

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

**Zoning:**

Recommendation:	Comments Only
Proposed Conditions:	
Comments:	<ol style="list-style-type: none"><li>1. The specific use of the Pole Barn has not been provided. Please be advised that as per Section 4.5 of Hamilton Zoning By-Law 05-200, where a Single Detached Dwelling is permitted, no more than one such dwelling shall be erected on a lot. As such, the proposed Pole Barn shall not be used for human habitation.</li></ol>



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**STAFF COMMENTS**

**HEARING DATE: May 29, 2025**

	<ol style="list-style-type: none"><li>2. Please note, Variances #2 and #3 have been provided in reference to an Accessory Building being located within the P7 Zone; as such, the requirements of Section 4.8 g) shall apply. This comment is provided for clarification purposes due to a portion of the property being located within the A2 Zone and having separate Accessory Building Height requirements from that of the P7 Zone.</li><li>3. Be advised, as per Planning Staff correspondence, the location of the proposed Accessory Building shall be located within the already disturbed area indicated on the Site Sketch submitted with this application.</li><li>4. Please be advised that a portion of this property is within an area regulated by <b>Hamilton Conservation Authority</b>. Please contact <b>(905) 525-2181</b> or <a href="mailto:nature@conservationhamilton.ca">nature@conservationhamilton.ca</a> prior to any development.</li></ol>
Notes:	

**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>Building Permit # 25-101133, issued on April 15, 2025, for the pool enclosure for the proposed in-ground pool remains not finalized.</p> <p>A building permit is required for the construction of the proposed accessory structure within the rear yard of an existing single-family dwelling.</p> <p>Be advised that Ontario Building Code regulations may require specific setback and construction types.</p>

**Transportation Planning:**



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**STAFF COMMENTS**

**HEARING DATE: May 29, 2025**

Recommendation:	No Comments
Proposed Conditions:	
Comments:	
Notes:	

**Mississaugas of the Credit First Nation:**

Recommendation:	Approve with Conditions
Proposed Conditions:	The MCFN require, at minimum, a Stage 1 Archaeological Assessment be carried out and reports to be forwarded to <a href="mailto:payton.mitchell@mncfn.ca">payton.mitchell@mncfn.ca</a> .
Comments:	
Notes:	

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



**Danelski, Alexander**

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**From:** Kiddie, Melissa  
**Sent:** Friday, May 16, 2025 2:42 PM  
**To:** Sarah Butler; Committee of adjustment  
**Cc:** Catarino, Jennifer; Bonaventura, David  
**Subject:** RE: Tree Protection Plan - 856 Concession 5W

Hi Sarah,

Thank you for providing the Tree Protection Plan. I have now had a chance to review and provide the following comments. To address these comments, I am recommending that the Tree Protection Plan be a condition of the minor variance.

1. A Tree Protection Plan (TPP) review fee is to be provided to the City. This fee is \$735.00 and can be submitted to the City via cheque or credit card.
2. Tree Protection Measures:
  - a. Tree protection fencing has not been proposed for trees along the southern property boundary (adjacent to the proposed development). Since these trees form part of the Environmentally Significant Area/Significant Woodland, it is important to protect them from any potential impacts of development. The figure is to be revised to include this fencing.
  - b. Tree protection fencing should also be extended to protect trees #19 and 26.
  - c. Tree protection fencing is to be located at a minimum of 1 metre from the dripline of the tree.
  - d. To ensure that tree protection fencing is implemented, the tree management professional (i.e., certified arborist, registered professional forester, or landscape architect) is to provide a Verification of Tree Protection Letter to the Director of Planning. This correspondence is to be provided prior to the start of any on-site activities.

Thanks,

Melissa

**Melissa Kiddie**

Natural Heritage Planner (*She/Her*)  
Planning and Economic Development  
Planning, City of Hamilton



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**From:** Sarah Butler [REDACTED]  
**Sent:** Wednesday, April 30, 2025 1:30 PM  
**To:** Kiddie, Melissa <Melissa.Kiddie@hamilton.ca>; Committee of adjustment <cofa@hamilton.ca>

## Danelski, Alexander

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**From:** Mikiya Hobbs <mhobbs@conservationhamilton.ca>  
**Sent:** Wednesday, May 21, 2025 9:59 AM  
**To:** Committee of adjustment  
**Subject:** May 27th COA - HCA Comments for A-25:025 - 856 Concession 5 W  
**Attachments:** March 27th COA - HCA Comments for A-25:025 for 856 Concession 5 W, Flamborough

**External Email:** Use caution with links and attachments

Hello,

Thank you for circulating the Hamilton Conservation Authority (HCA) with the revised submission for the Minor Variances application A-25:025 for 856 Concession 5 West, Flamborough.

Based on a review of the materials submitted, the attached comments from March 18<sup>th</sup>, 2025 are still valid. HCA has no natural hazards concerns related to the approval of the proposed minor variances.

There will be no HCA review fee for this file.

If there are any questions, please let me know.

Thank you,

### Mikiya Hobbs

Planner, Watershed Management Services  
Hamilton Conservation Authority  
838 Mineral Springs Road, P.O. Box 81067  
Ancaster, ON L9G 4X1

**Phone:** 905-525-2181 Ext. 148

**Email:** [mhobbs@conservationhamilton.ca](mailto:mhobbs@conservationhamilton.ca)

[www.conservationhamilton.ca](http://www.conservationhamilton.ca)



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## Danelski, Alexander

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**From:** Mikiya Hobbs <mhobbs@conservationhamilton.ca>  
**Sent:** Tuesday, March 18, 2025 3:19 PM  
**To:** Committee of adjustment  
**Cc:** Sarah Butler  
**Subject:** March 27th COA - HCA Comments for A-25:025 for 856 Concession 5 W, Flamborough

Hello,

Thank you for circulating the Hamilton Conservation Authority (HCA) with the Minor Variance Application A-25:025 for the lands located at 856 Concession 5 West, Flamborough. HCA staff have reviewed the information provided in accordance with HCA's plan review and regulatory responsibilities under the *Conservation Authorities Act* and provide the following comments.

The subject property is located within the Middle Spencer Creek subwatershed. A small portion of the site is regulated by HCA due to its proximity to a wetland and the associated potential for flooding hazards.

Based on a review of the materials provided, the proposed development is located outside of the regulated area, and there are no natural hazards concerns related to the proposed development. HCA staff have no objections to the approval of the requested minor variances.

There will be no HCA review fee for this file.

If there are any questions, please let me know.

Thank you,

### Mikiya Hobbs

Planner, Watershed Management Services  
Hamilton Conservation Authority  
838 Mineral Springs Road, P.O. Box 81067  
Ancaster, ON L9G 4X1

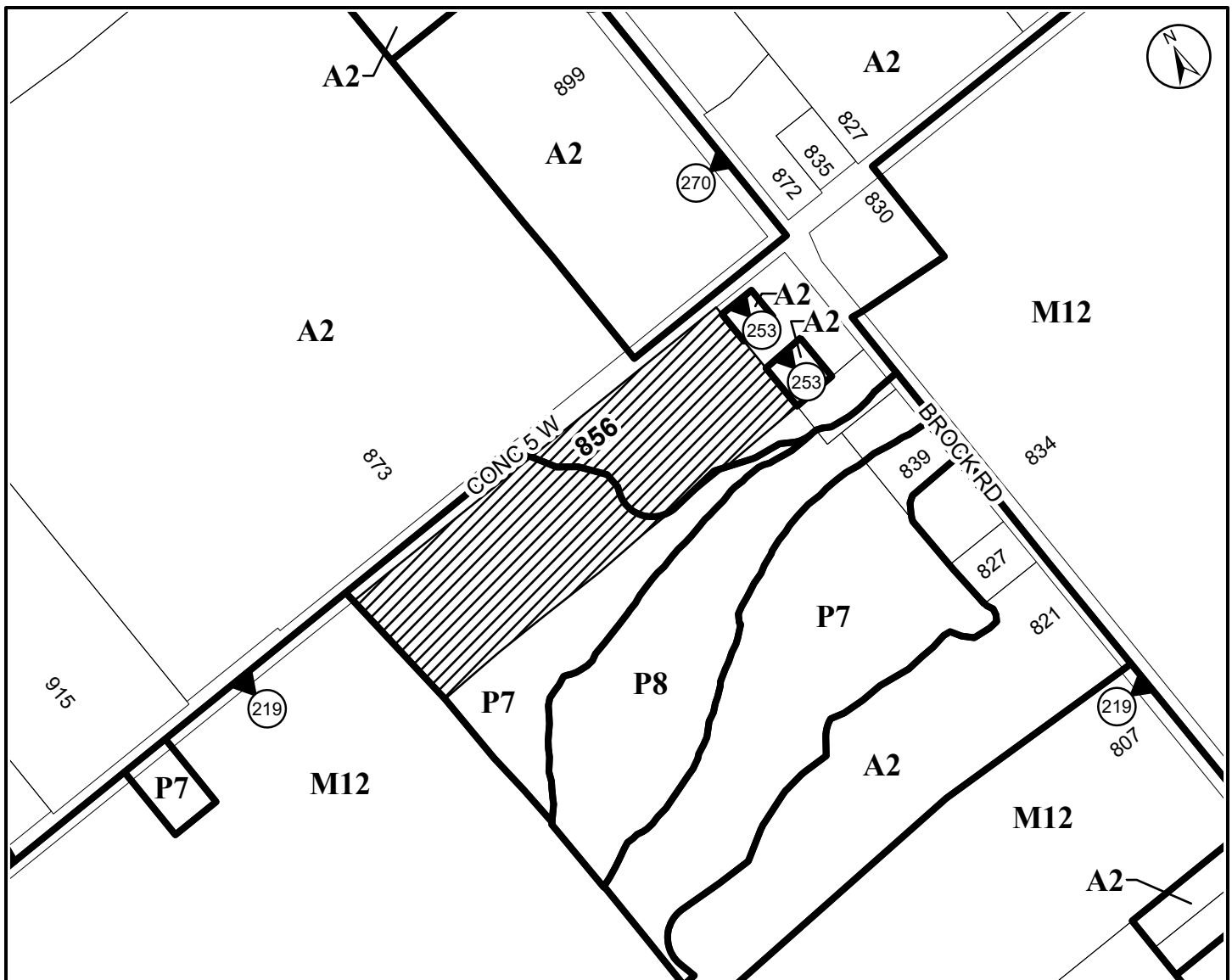
**Phone:** 905-525-2181 Ext. 148

**Email:** [mhobbs@conservationhamilton.ca](mailto:mhobbs@conservationhamilton.ca)

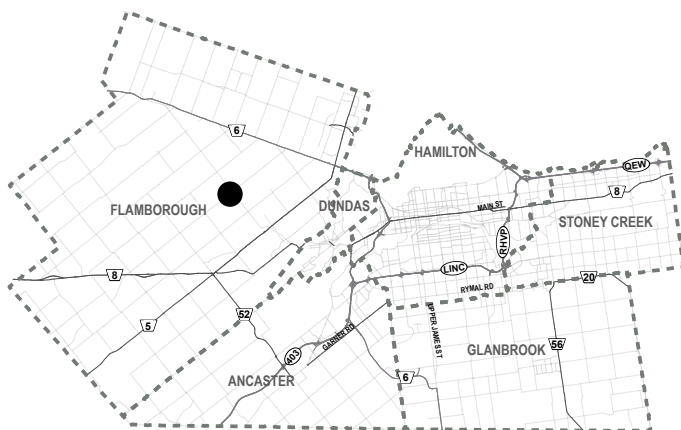
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## ● Site Location



# City of Hamilton

## Committee of Adjustments

### Subject Property

856 Concession 5 West,  
Flamborough (Ward 13)

**File Name/Number:**  
A-25:025

**Date:**  
May 9, 2025

**Technician:**  
RS

**Scale:**  
N.T.S.

## Appendix "A"



Hamilton

Planning and Economic Development Department