

A-25:011 — 49 Upper Lake Avenue, Stoney Creek

Recommendation:

Approve revised variance 1 and proposed variance 2 by staff with proposed conditions. —
Development Planning

Proposed Conditions:

1. That the requested variances generally apply to the provided site plan and sketch package as found in Notice of Public Hearing for file A-25:011 (49 Upper Lake Avenue) being heard on May 29, 2025. (Development Planning)
2. 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)

Proposed Notes:

A building permit is required for the construction of the proposed of the second-floor addition to an existing storage garage.

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

MCFN's Department of Consultation and Accommodation (DOCA) have no questions or comments for you at this time. This does not indicate a position of support for the project, that the Duty to Consult and Accommodate the MCFN has been met, or that there are no adverse impacts to the MCFN's Indigenous and Treaty Rights.

DOCA expects to be notified of any and all future project updates and/or changes. Additionally, DOCA must be notified of, invited to participate in, and provided the opportunity to review any environmental and/or archaeological assessments. At its discretion, DOCA may request capacity funding from the proponent for its consultation and engagement activities relating to the project. (Mississaugas of the Credit First Nation)

Development Planning:

Background

The proposed variances are to facilitate the construction of a second-floor addition to an existing storage garage.

Staff note that this application was previously tabled at the March 6th Committee of Adjustment hearing. Staff did not have sufficient materials to provide a recommendation on the proposal and requested the application be tabled until staff had sufficient information in order to provide a formal recommendation on the proposed second floor addition to an existing accessory building. Staff have since reviewed the elevations for the second-floor addition and generally have no concerns. Staff in working with the applicant and zoning staff were able to eliminate the variances for the side and rear yard setbacks as they were existing conditions and were not seeking to further encroach into the side and rear yards through the proposed addition of a second storey.

The following **variance is requested**:

1. A maximum gross floor area of 57.5 square metres and a maximum building height of 6.045 metres shall be permitted for all buildings accessory to the single detached dwelling instead of the requirement that all buildings accessory to a single detached dwelling shall not exceed a maximum gross floor area of 45 square metres and shall have a maximum building height of 4.5 metres.

Staff request that the proposed **Variance 1 be amended** to be separated into two variances to recognise both the height and gross floor area separately:

1. A maximum gross floor area of 57.5 square metres shall be permitted for all buildings accessory to the single detached dwelling instead of the requirement that all buildings accessory to a single detached dwelling shall not exceed a maximum gross floor area of 45 square metres.
2. A maximum building height of 6.045 metres shall be permitted for all buildings accessory to the single detached dwelling instead of the requirement that all buildings accessory to a single detached dwelling shall have a maximum building height of 4.5 metres.

Urban Hamilton Official Plan

The subject property is designated “Neighbourhoods” on Schedule E-1 of the Urban Hamilton Official Plan. Policy E.3.2.3 a) permits residential dwellings, including second dwelling units and housing with supports. Policy E.3.4.3 a) permits single detached, semi detached, duplex, triplex, fourplex, and



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street townhouse dwellings. Based on the forgoing policies, single detached dwellings and structures accessory thereto are permitted.

Old Town Secondary Plan

The subject property is further designated “Low Density Residential 2a” on Map B.7.2-1 – Old Town Secondary Plan – Land Use Plan. In accordance with Policy B.1.5 a), Policy E.3.4.3 of Volume 1 shall apply for the purposes of permitted density ranges, built form, and height. Based on the forgoing, the proposal complies with the Old Town Secondary Plan.

Natural Heritage

The subject property is located within the boundaries of the Urban Hamilton Official Plan (UHOP). Based on Schedule B (Natural Heritage System) of the UHOP, Core Areas (i.e., Environmentally Significant Areas, Areas of Natural and Scientific Interest, Significant Woodlands, wetlands, and watercourses) as well as Linkages (natural features that ecologically connect Core Areas) have not been identified within or adjacent to the subject property. As a result, it is anticipated that the proposed development will not further negatively impact 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 (policy C.2.11.1). Since the trees are located on the adjacent property, it is important to protect these trees. A Tree Protection Plan has not been included with this application.

Archaeology:

No comments.

Cultural Heritage:

No Comments.

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

The subject property is zoned R1 (Low Density Residential) in Zoning By-law No. 05-200, which permits the existing land use.

Analysis

Variance 1 as requested.



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STAFF COMMENTS

HEARING DATE: May 29, 2025

1. A maximum gross floor area of 57.5 square metres and a maximum building height of 6.045 metres shall be permitted for all buildings accessory to the single detached dwelling instead of the requirement that all buildings accessory to a single detached dwelling shall not exceed a maximum gross floor area of 45 square metres and shall have a maximum building height of 4.5 metres.

Variance 1 as **amended** by staff.

1. A maximum gross floor area of 57.5 square metres shall be permitted for all buildings accessory to the single detached dwelling instead of the requirement that all buildings accessory to a single detached dwelling shall not exceed a maximum gross floor area of 45 square metres.

The intent of the maximum gross floor area for accessory buildings is to prevent the overdevelopment of a lot and to ensure that the accessory structures on a lot remain subordinate to the primary use. Staff have reviewed the proposed increase in permissible gross floor area. The increase of approximately 12.5 square metres appears to be minor as the existing building footprint is remaining unchanged and the increase is directly attributed to the increase in height and the addition of another storey on the existing accessory building. The additional space is to be used for storage. Staff have reviewed the additional provided elevations for the second storey and, as there are no windows overlooking lands to the south and the east, concerns relating to privacy and overlook are reduced. Based on the forgoing, **staff are supportive of the amended variance 1** as it is minor in nature and meets the four tests of a minor variances under the *Planning Act*.

Variance 2 as **proposed** by staff.

2. A maximum building height of 6.045 metres shall be permitted for all buildings accessory to the single detached dwelling instead of the requirement that all buildings accessory to a single detached dwelling shall have a maximum building height of 4.5 metres.

The intent of the maximum building height for buildings accessory to a single detached dwelling is to prevent impacts to neighbouring land uses and to prevent the introduction of overlook and privacy concerns. Staff have reviewed the proposed variance and generally have no concerns with the proposed increase from 4.5 metres to 6.045 metres. The increase of 1.545 metres appears to be a minor and will not result in adverse impact on adjacent properties. The proposal is seeking to add a second storey to an existing storage shed. The proposed second storey is to be used for storage; The applicant has since provided elevations that have shown where windows would be located and are not facing neighbouring lands to the south and east. Concerns relating to privacy and overlook are no longer a concern from staff's perspective. Based on the forgoing, **staff are supportive of the proposed variance 2** as it is minor in nature and meets the four tests of a minor variances under the *Planning Act*.



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STAFF COMMENTS

HEARING DATE: May 29, 2025

Based on the forgoing analysis **staff recommend that revised variance 1 and proposed variance 2 by staff be approved with the proposed conditions** as they maintain the general intent of both the Official Plan and Zoning By-law, are minor in nature, and are desirable for the appropriate development of the subject lands.

Zoning:

Recommendation:	Comments Only
Proposed Conditions:	
Comments:	The variance has been written as requested by the applicant. Additional variances may be required if zoning conformity cannot be achieved.
Notes:	

Development Engineering:

Recommendation:	No Comments
Proposed Conditions:	
Comments:	
Notes:	

Building Engineering:

Recommendation:	Comments and Conditions/Notes
Proposed Conditions:	
Comments:	
Notes:	A building permit is required for the construction of the proposed of the second-floor addition to an existing storage garage. Be advised that Ontario Building Code regulations may require specific setback and construction types.

Transportation Planning:

Recommendation:	No Comments
Proposed Conditions:	
Comments:	
Notes:	

Mississaugas of the Credit First Nation:

Recommendation:	No Comments
Proposed Conditions:	



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STAFF COMMENTS

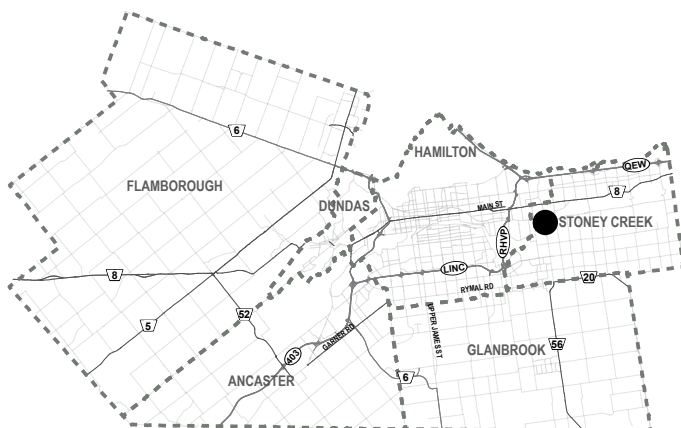
HEARING DATE: May 29, 2025

Comments:	
Notes:	<p>MCFN's Department of Consultation and Accommodation (DOCA) have no questions or comments for you at this time. This does not indicate a position of support for the project, that the Duty to Consult and Accommodate the MCFN has been met, or that there are no adverse impacts to the MCFN's Indigenous and Treaty Rights.</p> <p>DOCA expects to be notified of any and all future project updates and/or changes. Additionally, DOCA must be notified of, invited to participate in, and provided the opportunity to review any environmental and/or archaeological assessments. At its discretion, DOCA may request capacity funding from the proponent for its consultation and engagement activities relating to the project.</p>

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



● Site Location



City of Hamilton

Committee of Adjustments

Subject Property



49 Upper Lake Avenue,
Stoney Creek (Ward 5)

File Name/Number:
A-25:011

Date:
May 9, 2025

Technician:
RS

Scale:
N.T.S.

Appendix "A"



Hamilton

Planning and Economic Development Department