



A-25:128 — 835 Regional Road 97, Flamborough

**Recommendation:**

Deny – Source Protection Planning  
Deny — Development Planning

**Proposed Conditions:**

**Proposed Notes:**

A building permit is required for the conversion of existing medical clinic to the proposed additional dwelling unit in the front yard of the existing single family dwelling. (Building Engineering)

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

## **Development Planning:**

### **Background**

The purpose of Minor Variance application A-25:128 is to establish the use of an Additional Dwelling unit – Detached in the front yard of the existing Single Detached Dwelling.

### **Analysis**

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

The subject property is designated “Rural Settlement Areas” on Schedule D of the Rural Hamilton Official Plan. The subject property is designated “Settlement Residential” on Volume 2: Map 7 Freelon Rural Settlement Area Plan of the Rural Hamilton Official Plan. Policies A.1.2.3 and A.1.3.1 of Volume 2 of the Rural Hamilton Official Plan, amongst others, are applicable and permit the existing single detached dwelling.

#### **Cultural Heritage**

The property known as 835 Regional Road 97, Flamborough is located within the Freelon Cultural Heritage Landscape.

Accordingly, sections B.3.4.1.4 and B.3.4.2.1 (h) of the Urban Hamilton Official Plan, Volume 1, apply.

The proponent proposes to establish the use of an Additional Dwelling unit – Detached in the front yard of the existing Single Detached Dwelling.

Where new construction and/or alterations or additions to existing structures are proposed in a Cultural Heritage Landscape, key considerations are the visual and physical impacts on landscape features, typically public views of the building fabric, building setback, the streetscape and significant vistas.

Notwithstanding that the subject property is within the Freelon Cultural Heritage Landscape, staff have reviewed the application and are of the opinion that the cultural heritage value of the landscape will be conserved.

Staff have no further comments on the application as circulated.

#### **Source Protection**

#### **Source Protection**

Planning understands the applicant is seeking a minor variance of a minimum lot area of 0.21 ha instead of the minimum lot area of 1.5 ha for the proposal of a detached additional dwelling unit on an existing 0.21 ha lot. Our comments are as follows:



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1. The current lot size of 0.21 ha is considered insufficient for an additional dwelling unit, as our desktop review indicates that based on the septic effluent expected from the proposed use of the property, the lot size of 0.8 ha is not considered sustainable and as a result does not meet policies within Rural Hamilton Official Plan C.5.1.

2. Rural Official Plan, Policy 3.1.2.e states that:

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.

**As such, Source Protection Planning cannot support the application at this time.** As per Section 3.1.2.e iii) the lot size can be reduced if it is demonstrated through a Hydrogeological Report that Policy C.5.1 of the Rural Official Plan can be achieved. The Study must follow the City's Guideline for Hydrogeological Studies and Technical Standards for Private Services. The guidelines are available on the City's website: <https://www.hamilton.ca/sites/default/files/2023-06/pedpolicies-guidelines-hydrogeological-studies-2023.pdf>

The applicant should be aware that a Hydrogeological Report does not necessarily promote a favorable outcome.

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

The subject lands are zoned Settlement Residential (S1, 59) Zone in City of Hamilton Zoning By-law No. 05-200. The existing single detached dwelling is a permitted use. The proposed additional dwelling unit is not a permitted use.

### **Variances 1 and 2**

1. An Additional Dwelling Unit – Detached shall be permitted on a lot containing a Single Detached Dwelling having a minimum lot area of 0.21 hectares whereas a minimum lot area of 1.5 hectares is required.
2. Notwithstanding Section 4.33.4.a.i) and Special Figure 24.2 of Schedule 'F', an Additional Dwelling Unit – Detached shall be permitted within the Freelon Rural Settlement Area.



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The intent of these provisions is to ensure there is sufficient servicing and stormwater management in order to prevent or mitigate drainage, private water, wastewater and other servicing issues.

Staff note that the subject property has a lot area of 0.21 hectares which is less than 7 times the lot area required to ensure sufficient servicing. Policy C.3.1.2 e) states that an additional dwelling unit - detached shall be permitted in Rural Hamilton subject to the lot having a minimum lot area of 1.5 hectares and permitted when the primary dwelling and the additional dwelling unit - detached can achieve the minimum servicing requirements of Policy C.5.1, which states:

- “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: (OPA 23)(OPA 26)
- 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.(OPA 23)
  - 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. (OPA 23)
  - c) The minimum size for a new lot proposed in a consent application for a severance or lot addition, or draft plan of subdivision with an existing or proposed private water system and/or existing or proposed private sewage disposal system shall: (OPA 41)
    - i. be the size required to accommodate the water system and sewage disposal system with acceptable on-site and off-site impacts;



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- ii. shall include sufficient land for a reserve discharge site or leaching bed, as determined by the requirements in Policies C.5.1.1 a) and b); and,
- iii. not be less than 0.4 hectare (one acre) in size. The maximum lot size shall be in accordance with Policy F.1.14.2.1 f). (OPA 26)”

Staff note that the minimum lot size for sufficient servicing without an additional dwelling unit is 0.4 hectares and the existing lot size is 0.21 hectares. Development Planning defers to Development Engineering and Source Protection regarding any servicing concerns.

Staff further note that Policy 1.3.3 in Chapter A-1 of Volume 2 of the Rural Hamilton Official Plan does not permit an additional dwelling unit within the Freelton Rural Settlement Area and that variances 1 and 2 are intended to implement a use which is not a permitted by the Rural Hamilton Official Plan and Zoning By-law.

Staff are of the opinion that the requested variances do not maintain the general intent and purpose of the Rural Hamilton Official Plan and Zoning By-law, is not desirable for the appropriate use of the land, and is not minor in nature. Staff do not support the variances.

**Variances 3 and 4**

- 3. An Additional Dwelling Unit – Detached shall be permitted to be located within the Front Yard of the existing Single Detached Dwelling whereas the By-law prohibits Additional Dwelling Unit – Detached to be located in the front yard.
- 4. The front façade of the Additional Dwelling Unit - Detached shall be permitted to be located at a distance of 8.4 metres from the front lot line whereas the by-law requires the Additional Dwelling Unit – Detached to be setback a minimum 5.0 metres from the front façade of the principal dwelling.

The intent of these provisions is to ensure additional dwelling units remain subordinate in size, scale and character to the principle building or primary dwelling.

Staff note that proposed additional dwelling unit is closer to the front property line than the primary dwelling. Staff are concerned that the proposed location of the additional dwelling unit and the location of the primary dwelling in the rear makes the primary dwelling appear subordinate in size to the additional dwelling unit. The proposed additional dwelling unit is close in size and scale to the existing single detached dwelling and does not maintain the character of the neighbourhood.

Staff note further that Policy 1.3.3 in Chapter A-1 of Volume 2 of the Rural Hamilton Official Plan does not permit an additional dwelling unit within the Freelton Rural Settlement Area and that variances 3



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and 4 are intended to implement a use which is not a permitted use in the Rural Hamilton Official Plan and Zoning By-law.

Staff are of the opinion that the requested variances do not maintain the general intent and purpose of the Rural Hamilton Official Plan and Zoning By-law, is not desirable for the appropriate use of the land, and is not minor in nature. Staff do not support the variances.

**Variance 5**

5. A maximum building height of 6.1 metres shall be permitted for an Additional Dwelling Unit – Detached instead of the maximum permitted height of 6.0 metres.

The intent of this provision is to ensure additional dwelling units remain subordinate in size, scale and character to the principle building or primary dwelling.

Staff note that the existing single detached dwelling has a height of 4.6 metres, whereas the proposed additional dwelling unit is to have a height of 6.1 metres. Staff note that the subject land is located on the corner of Regional Road 97 and Brock Road. The proposed additional dwelling unit is not visible from Regional Road 97 due to tree cover but is visible from Brock Road. Staff are concerned that the proposed height of the additional dwelling unit combined with the location and height of the primary dwelling in the rear makes the primary dwelling appear subordinate in size to the additional dwelling unit. The proposed additional dwelling unit is close in size and scale to the existing single detached dwelling and does not maintain the character of the neighbourhood.

Staff further note that Policy 1.3.3 in Chapter A-1 of Volume 2 of the Rural Hamilton Official Plan does not permit an additional dwelling unit within the Freelon Rural Settlement Area and that variances 1 and 2 are intended to implement a use which is not a permitted use by the Rural Hamilton Official Plan and Zoning By-law.

Staff are of the opinion that the requested variance does not maintain the general intent and purpose of the Rural Hamilton Official Plan and Zoning By-law, is not desirable for the appropriate use of the land, and is not minor in nature. Staff do not support the variances.

Based on the foregoing, staff are of the opinion that the requested variances do not meet the four tests of a minor variance. **Staff recommend denial.**

**Zoning:**

Recommendation:	No Comments
Proposed Conditions:	
Comments:	
Notes:	



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**HEARING DATE: August 14, 2025**

**Development Engineering:**

Recommendation:	No Comments
Proposed Conditions:	
Comments:	
Notes:	

**Building Engineering:**

Recommendation:	Comments and Conditions/Notes
Proposed Conditions:	
Comments:	
Notes:	<p>A building permit is required for the conversion of existing medical clinic to the proposed additional dwelling unit in the front yard of the existing single family dwelling.</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:	

**Source Protection Planning:**

Recommendation:	Deny
Proposed Conditions:	
Comments:	<p>Source Protection Planning understands the applicant is seeking a minor variance of a minimum lot area of 0.21 ha instead of the minimum lot area of 1.5 ha for the proposal of a detached additional dwelling unit on an existing 0.21 ha lot. Our comments are as follows:</p> <p>1. The current lot size of 0.21 ha is considered insufficient for an additional dwelling unit, as our desktop review indicates that based on the septic effluent expected from the proposed use of the property, the lot size of 0.8 ha is not considered sustainable and as a result does not meet policies within Rural Hamilton Official Plan C.5.1.</p> <p>2. Rural Official Plan, Policy 3.1.2.e states that:</p>



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	<p>An additional dwelling unit - detached shall be permitted in Rural Hamilton subject to the following: (OPA 39)</p> <p>i) One additional dwelling unit - detached may be permitted on a lot with a minimum lot area of 1.5 hectares.</p> <p>ii) The primary dwelling and the additional dwelling unit – detached can achieve the minimum servicing requirements of Policy C.5.1 of this Plan.</p> <p>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.</p> <p><b>As such, Source Protection Planning cannot support the application at this time.</b> As per Section 3.1.2.e iii) the lot size can be reduced if it is demonstrated through a Hydrogeological Report that Policy C.5.1 of the Rural Official Plan can be achieved. The Study must follow the City's Guideline for Hydrogeological Studies and Technical Standards for Private Services. The guidelines are available on the City's website: <a href="https://www.hamilton.ca/sites/default/files/2023-06/pedpolicies-guidelines-hydrogeological-studies-2023.pdf">https://www.hamilton.ca/sites/default/files/2023-06/pedpolicies-guidelines-hydrogeological-studies-2023.pdf</a></p> <p>The applicant should be aware that a Hydrogeological Report does not necessarily promote a favorable outcome.</p>
Notes:	

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



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**From:** Boucetta, Alexandra (MTO) <Alexandra.Boucetta@ontario.ca>  
**Sent:** Wednesday, August 6, 2025 6:44 PM  
**To:** Committee of adjustment  
**Subject:** RE: August 14, 2025 Committee of Adjustment Agenda Available - 835 Regional Road 97, Flamborough

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

**APPLICATION NO.: A-25:128**

**SUBJECT PROPERTY: 835 Regional Road 97, Flamborough**

Good day, Justin,

The Ministry has no issues with the proposed minor variances. However, the proponent must note that small portion of the property is located within the Ministry's permit control and therefore may require a Ministry Building and Land Use permit.

Please ensure that the following documents are uploaded with the application:

- Site Plan

No construction or grading is to commence before it is determined by the MTO whether the permit is required and, if yes, has been approved and issued by the Ministry.

The proponent may submit an application through the following link: [HCMS - Apply for a permit - Application for Building and Land Use permit \(gov.on.ca\)](#)

Thank you,

**Alexandra Boucetta**

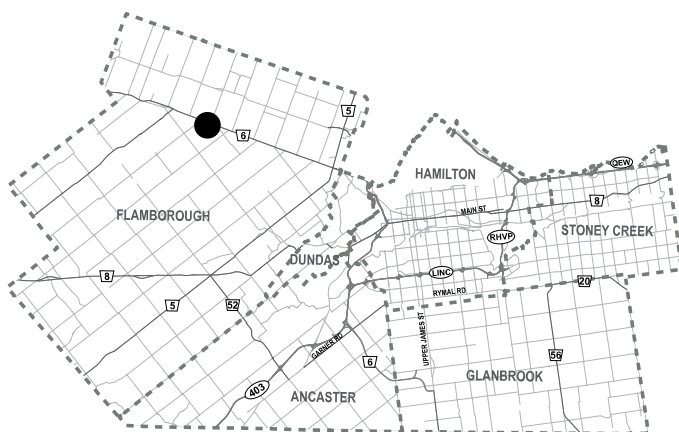
Corridor Management Officer | Corridor Management, Central Region West | Operations Division  
Ministry of Transportation | Ontario Public Service  
416-816-4719 | [alexandra.boucetta@ontario.ca](mailto:alexandra.boucetta@ontario.ca)



*Taking pride in strengthening Ontario, its places and its people*



● Site Location



**City of Hamilton**

## Committee of Adjustments

### Subject Property



835 Regional Road 97, Flamborough  
(Ward 13)

File Name/Number:

A-25:128

Date:

July 29, 2025

Technician:

RS

Scale:

N.T.S.

Appendix "A"



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Planning and Economic Development Department