



Hamilton

**STAFF COMMENTS**

**HEARING DATE: September 25, 2025**

A-25:173 — 46 East Bend Avenue North, Hamilton

**Recommendation:**

Deny — Development Engineering

Deny Variance 1, Variance 2 is not required — Development Planning

**Proposed Conditions:**

**Proposed Notes:**

Building Permit # 25-102988, issued on August 29, 2025, alterations to the interior of the single family dwelling to reinforce existing foundation wall to support new brick veneer cladding and drywalling throughout, remains not finalized. (Building Engineering)

Order to Comply 25-201398 dated July 17, 2025 remains outstanding. (Building Engineering)

A building permit is required for the construction of the proposed addition to the existing single family dwelling. (Building Engineering)

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 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



Hamilton

**STAFF COMMENTS**

**HEARING DATE: September 25, 2025**

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-25:173 is to permit the construction of an addition to an existing single detached dwelling.

### Urban Hamilton Official Plan

The subject lands are identified as “Neighbourhoods” on Schedule E – Urban Structure and are designated “Neighbourhoods” on Schedule E – 1 Urban Land Use Designations of the Urban Hamilton Official Plan. Policy E.3.4.3, amongst others, is applicable and permits the existing single detached dwelling.

### 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 corridors.

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.

**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



# Hamilton

Government and Consumer Services (416-212-7499).”

## **Cultural Heritage**

The property known as 46 East Bend Avenue North is located within the Toronto, Hamilton, and Buffalo Railway Cultural Heritage Landscape and the Crown Point West Established Historical Neighborhood.

Accordingly, sections B.3.4.1.4, B.3.4.1.5, B.3.4.2.1(h), B.3.4.6.2, B.3.4.3.6, and B.3.4.3.7 of the Urban Hamilton Official Plan, Volume 1, apply.

The proponent proposes the construction of an addition to an 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 set-back, the streetscape and significant vistas.

Staff recommend design revisions that consider the existing built heritage features within the historic context. Staff encourage that a similar colour and materiality be used that is in keeping with the surrounding built context. Staff would further recommend the use of architectural elements that are sympathetic to the surrounding existing built heritage resources.

## **Crown Point West Neighbourhood Plan**

The subject lands are identified as “Single and Double” on Map 6605 (Map 2 of 2) of the Crown Point West Neighbourhood Plan. The existing single detached dwelling is consistent with the intent of the Neighbourhood Plan.

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

The subject lands are zoned Low Density Residential – Small Lot (R1a) Zone in City of Hamilton Zoning By-law No. 05-200. The existing single detached dwelling is permitted.

## **Variance 1**

1. A minimum setback from a side lot line of 0.6 metres shall be provided whereas the Zoning By-law requires a minimum of 1.2 metres.

The intent of this provision is to ensure sufficient separation is provided between a building and a side property line to provide sufficient space for access, maintenance and drainage purposes. Development Planning staff defer to Development Engineering regarding drainage concerns.

Staff note that the existing southerly side yard maintains a setback of 0.8 metres. A northerly side yard setback of 0.6 metres is requested to permit the proposed addition to the existing dwelling. Staff



# Hamilton

are of the opinion that a 0.6 metre side yard setback is insufficient to provide access to the rear of the property and for maintenance purposes.

Therefore, it is staff’s opinion that the Variance 1 does not maintain the general intent of the Urban Hamilton Official Plan and Zoning By-law, is not desirable for the appropriate use or development of the land and is not minor in nature. Staff do not support the variance.

**Variance 2**

- 2. A minimum setback from the rear lot line of 4.6 metres shall be provided whereas the Zoning By-law requires a minimum of 7.5 metres.

The intent of this provision is to ensure sufficient space is maintained to provide rear yard amenity space and to prevent privacy and overlook impacts.

Staff note that Zoning interpretation policy ZON-041 states the following:

*“Any proposed addition(s) to a dwelling which do not further aggravate the existing legally established non-complying yard setbacks shall be permitted and shall not require an application for minor variance, provided that the existing yard setbacks are maintained or are moving closer to compliance with the yard requirements of the applicable zone.*

*The addition(s) shall still be required to meet all other applicable zoning requirements, including but not limited to height, lot coverage, minimum landscaped area, and parking regulations.*

*Encroachments shall be permitted into the existing legal non-complying yard setback in accordance with the applicable regulations of within the Zoning By-law.”*

As the rear yard setback of the proposed addition is consistent with the existing rear yard setback of 4.6 metres, staff are of the opinion that Variance 2 is not required.

Based on the foregoing, staff are of the opinion that Variance 1 does not meet the four tests of a minor variance and that Variance 2 is not required. **Staff recommend denial of Variance 1.**

**Zoning:**

Recommendation:	Comments Only
Proposed Conditions:	
Comments:	<ul style="list-style-type: none"> <li>1. Please be advised that variance #2 is not required as per Zoning Interpretation ZON-041.</li> <li>2. A Corridor Development Permit is required from Metrolinx to construct any buildings, structure, road, utility infrastructure, or to conduct any</li> </ul>



Hamilton

	excavation, dewatering or other Prescribed Work pursuant to the Building Transit Faster Act and its Regulation. Please contact <a href="mailto:development.coordinator@metrolinx.com">development.coordinator@metrolinx.com</a> for further information.
Notes:	

**Development Engineering:**

Recommendation:	Deny
Proposed Conditions:	
Comments:	<p>The proposed side yard setback of 0.6m does not meet the minimum width of 0.90m required to construct a drainage swale (0.15m depth minimum, 3:1 maximum side slopes). Therefore, we recommend that Minor Variance #1 be denied.</p> <p>Provided the existing drainage pattern is maintained, Development Engineering has no comments or objections to the minor variances #2 as proposed.</p>
Notes:	

**Building Engineering:**

Recommendation:	Comments and Conditions/Notes
Proposed Conditions:	
Comments:	
Notes:	<p>Building Permit # 25-102988, issued on August 29, 2025, alterations to the interior of the single family dwelling to reinforce existing foundation wall to support new brick veneer cladding and drywalling throughout, remains not finalized.</p> <p>Order to Comply 25-201398 dated July 17, 2025 remains outstanding.</p> <p>A building permit is required for the construction of the proposed addition to 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:	



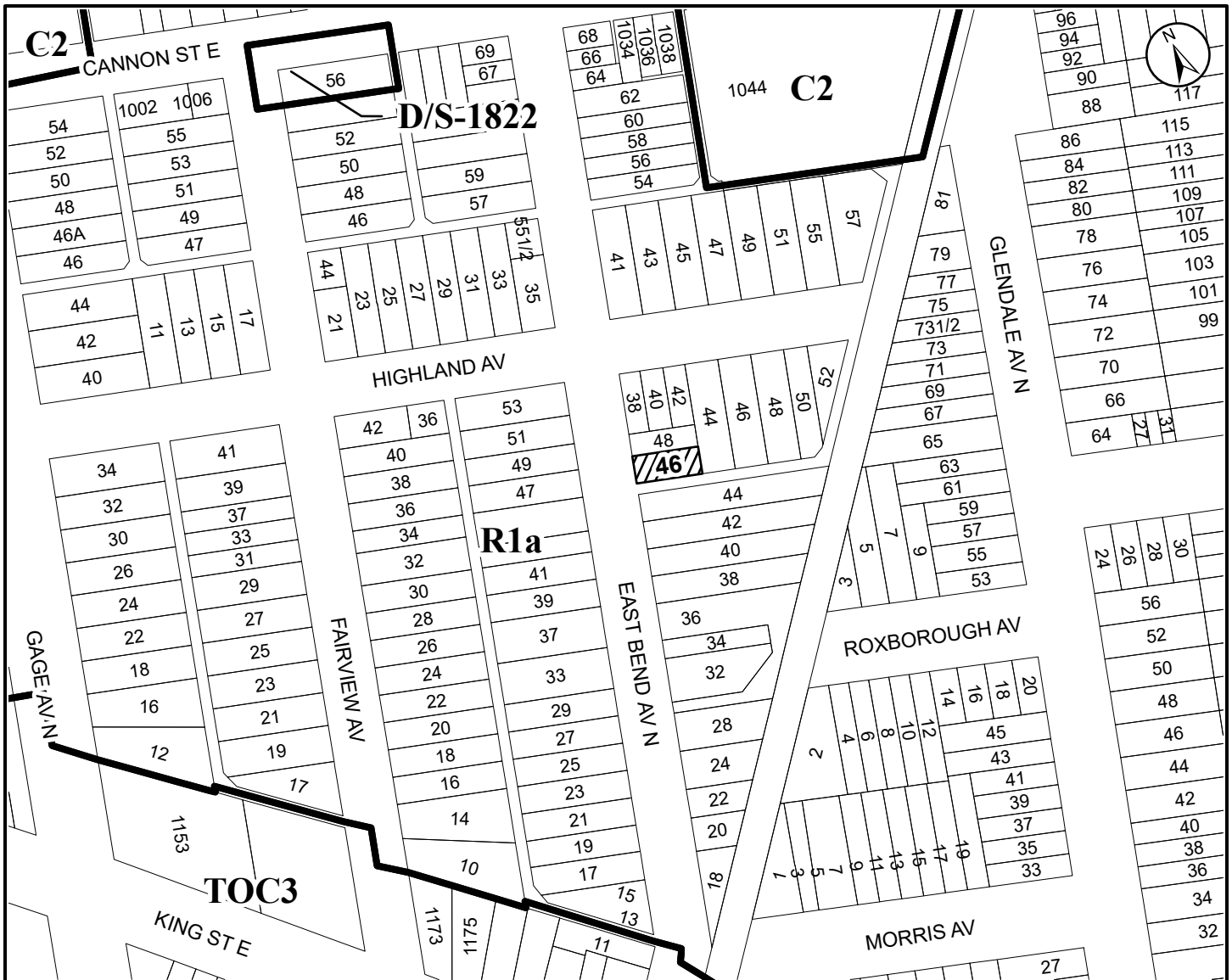
Hamilton

**STAFF COMMENTS**

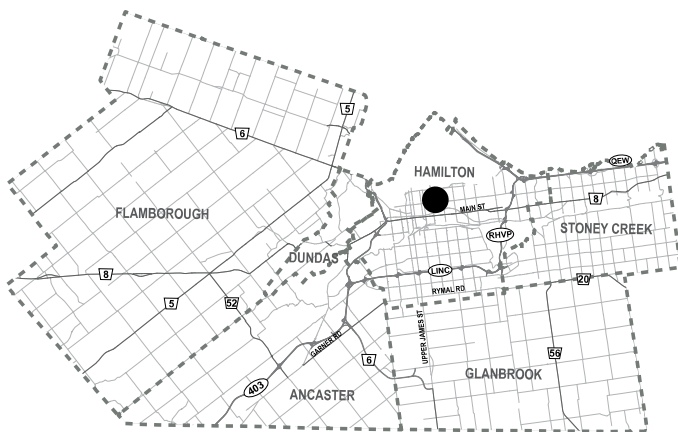
**HEARING DATE: September 25, 2025**

Notes:	
--------	--

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




● Site Location



**City of Hamilton**

## Committee of Adjustments

### Subject Property

 46 East Bend Avenue North, Hamilton (Ward 3)

File Name/Number:  
A-25:173

Date:  
September 10, 2025

Technician:  
RS

Scale:  
N.T.S.

Appendix "A"



**Hamilton**

Planning and Economic Development Department