
From: Brian Ogryzlo [REDACTED]
Sent: Tuesday, September 23, 2025 11:58 AM
To: Committee of adjustment
Subject: Public Input A25:173 46 East Bend Avenue N
Attachments: Minor Variance Public Input A25173.pdf

Categories: Public Comment

External Email: Use caution with links and attachments

Good Morning,

I've included my Public input for A25:173 at the upcoming CofA Meeting on September 25, 2025.

Kindly,

Brian Ogryzło, BURPI., B.A. Phil.
Urban & Regional Planner

[REDACTED]

Brian Ogryzlo, BURPL., BA.



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Public Input – Minor Variance A25:173 (46 East Bend Avenue North)

Minor Variance Application Details			
Application No.	A25:173	Subject Property	46 East Bend Avenue North
Zone	R1a	Zoning By-Law	Hamilton Zoning By-Law 05-200
Purpose/Effect	To facilitate the construction of an addition to an existing single detached dwelling.		

Variances Requested (Section 15.2 Low Density Residential - Small Lot (R1a) Zone)			
Section	Description	Performance Standard	Requested Variance
15.2.2.1 c) d)	Minimum Setback from the Side Lot Line	1.2 Metres*	0.6 Metres
15.2.2.1 c) f)	Minimum Setback from the Rear Lot Line	7.5 Metres*	4.6 Metres

*Note: Incorrect Notice of Minor Variance information, Section 4.7 Reduction of Yard for Non-Conforming Lots applies to the subject property.

Meeting Date: Thursday, September 25th, 2025

Dear Committee,

I am writing to give public input on Minor Variance Application A25:173 for the subject property at 46 East Bend Avenue North. I am a nearby resident of Ward 3 and believe the application meets the necessary four (4) tests for a Minor Variance under Section 45(1) of the Planning Act, albeit with regard to revised performance standards. While I am a qualified urban and regional planner in the Province of Ontario, I am writing this letter as an engaged resident, ratepayer and stakeholder in the City of Hamilton. These are my personal opinions on the matters and should not be considered representative of any professional advice or consultation. In this letter, I will provide a brief analysis of my decision-making process in determining the suitability of the proposed development and the requested variance(s).

Notice of Minor Variance – An Opportunity for Comprehensive Review

It would be first pertinent to highlight an opportunity for refinement of the *Notice of Minor Variance*. In the *Notice*, the standard performance standards are indeed those found in Section 15.2 Low Density Residential - Small Lot (R1a) Zone; however, to ensure that we have the necessary context, we must comprehensively consider *Hamilton's Zoning By-law 05-200* in its entirety. I would like to add perspective by bringing your attention to Section 4.7 General Provisions –

Reduction of Yards for Non-Conforming Lots, which I believe will help determine the actual scope of relief sought by the applicant. First, to demonstrate that Section 4.7 applies to the subject site, I will present a summary compliance review in Table 1.0, followed by an appropriate performance standard calculation in Table 1.1, both of which are presented below.

Table 1.0 - R1a Non-Conforming Lot Compliance Review (46 East Bend Avenue)					
Section	Description	Performance Standard	Existing Lot Conditions	Comforms	S.4.7 Applies
15.2.2.1 a)	Minimum Lot Area	270.0 square metres	139.4 square metres	Non-conforming	Yes
15.2.2.1 b)	Minimum Lot Width	9.0 metres	7.62 metres	Non-conforming	

As demonstrated in Table 1.0, the lot conditions of the subject site, in terms of minimum lot area and lot width, are non-conforming to the applicable R1a Zone performance standards. It would be reasonable to then follow that, as a Non-Conforming Lot, Section 4.7 ought to apply, and the resultant calculated performance standards be the baseline for relief sought through Minor Variance.

Table 1.1 - Performance Standard Calculations for Reduction of Yards for Non-Conforming Lots	
Section Description	Performance Standard Calculation
<p>Section 4.7 General Provisions – Reduction of Yards for Non-Conforming Lots</p> <p>Where a lot was legally established prior to the effective date of this By-law without sufficient lot width or lot area to meet the minimum requirements of this By-law, a residential building or dwelling, where permitted in the zone applied to the property, may be erected upon it subject to compliance with all other requirements of this By-law, provided however, that each side yard or flankage yard has a width of at least 10% of the width of the lot but in no case less than 0.9 metres, and that the rear yard has a depth of 25% the depth of the lot but in no case less than 3.0 metres.</p>	<p>Side Yard Setback Calculation:</p> <p>Side Yard Setback = Lot Width x 10%</p> <p>0.76 Metres = 7.61m x 10%</p> <p>Since cannot be <0.9m</p> <p><u>Side Yard Setback = 0.9m</u></p> <p>Rear Yard Setback Calculation:</p> <p>Rear Setback = Lot Depth x 25%</p> <p>4.57 Metres = 18.29m x 25%</p> <p><u>Rear Yard Setback = 4.6 Metres</u></p>

As a result of applying Section 4.7 calculations, the actual Minimum Setback from the Side Lot Line (10% of 7.61 metres) would equal 0.76 metres. However, since it cannot be less than 0.9 metres, we must assume 0.9 metres. The actual Minimum Setback from the Rear Lot Line (25% of the depth of the lot, 18.29 metres, but no less than 3.0 metres) would equal 4.57 metres, or 4.6 metres rounded. I would suggest that these are the appropriate performance standards to consider in the relief sought through Minor Variance, as they more fully capture the intent and purpose of the applicable zoning by-law.

As a result, I would recommend that the Variances Requested be amended to reflect the considerations of Section 4.7 (see Table 1.3).

Table 1.3 - Amended Variances Requested (Section 15.2 Low Density Residential - Small Lot (R1a) Zone)			
Section	Description	Performance Standard	Requested Variance
15.2.2.1 c) d)	Minimum Setback from the Side Lot Line	1.2 metres 0.9 metres	0.6 metres
15.2.2.1 e) f)	Minimum Setback from the Rear Lot Line	7.5 metres 4.6 metres	4.6 metres Variance Not Required

Final Conclusions and Recommendations

With regard to the revised performance standards, it is my opinion that a single variance for a Minimum Setback from a Side Lot Line (0.6 metres vs. 0.9 metres) meets the four tests of a minor variance under Section 45(1) of *The Planning Act*, with conditions. I am in support of the requested variance for the following reasons:

1. General Intent and Purpose – Zoning Bylaw (Section 15.2 Low Density Residential - Small Lot (R1a) Zone)

1.1. Meets the General Intent and Purpose of Zoning Bylaw

1.1.1. The R1a Zone applies to low density residential areas where lots are typically smaller than those in the R1 Zone. The intent of the R1a Zone is to permit a range of low density residential housing types to meet the needs of the residents of the city.

1.1.1.1. The proposed development generally meets the intent of the R1a zone as described above, while maintaining a degree of legal non-conforming performance standards. The proposed development still generally meets the landscape area, building height and front lot line setbacks, while maintaining similar massing to the existing built form of the area and promoting compact and efficient land use.

2. General Intent and Purpose – Official Plan (Neighbourhoods Designation)

2.1. Meets the General Intent and Purpose of UHOP

2.1.1. Meets the Policy Goals set out in E3.0 Neighbourhoods Designation of the UHOP

2.1.1.1. The proposal maintains compact, mixed-use, transit-supportive, and active transportation-friendly neighbourhoods.

2.1.1.2. Contributes meaningfully to the development of complete communities.

2.1.1.3. Accounts for the need for a range of housing types and densities.

2.1.1.4. Massing and design generally enhance and respect the character of the existing neighbourhood (including setbacks, lot size, height and design) while providing a gentle evolution of the existing built form.

2.1.1.5. Offers compatibility with the surrounding area in terms of scale, massing, height, siting, orientation, setbacks, parking, and landscaping;

2.1.1.6. Provides a meaningful adaptive re-use of existing building stock for the appropriate land use

3. Desirable for the Appropriate Development or Use of the Land, Building, or Structure

3.1. Adaptive reuse of existing residential structure.

3.2. Maintains appropriate massing, lot area, and access. With the subject site's location on the alleyway, I believe it generally offers more support for reduced setback performance standards, allowing for a higher degree of access for maintenance and emergency services.

4. Minor in Nature

Generally, a Minor Variance is weighed under this test with regard to the impact it will have on its surroundings. With regard to the requested 0.6 metre versus the 0.9 metre required side yard setback (when considering Section 4.7 and 05-200 comprehensively), I believe the impact will be minor in nature on the subject site and its surroundings. However, I would like the applicant to provide comments and details on the planned eave encroachments into the requested setback, and their plans for adequate drainage along the side lot line to ensure that the impact will be minor.

Alternative Resolutions & Closing Comments

Consider As-of-Right 0.9m Setback

While I support the 0.6 metre proposed side yard setback, I would also encourage the applicant to consider the as-of-right 0.9 metre setback in lieu of the proposed variance (also rendering this application unnecessary). One may consider this option to balance the placement of the home on the lot with a higher degree of balance between each of the side yards.