



CITY OF HAMILTON

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT Planning Division

TO: Chair and Members Planning Committee	WARD(S) AFFECTED: WARD 12
COMMITTEE DATE: April 5, 2011	
SUBJECT/REPORT NO: Committee of Adjustment Consent Application AN/B-10:133 and Minor Variance Application AN/A-10:233 for the Property Known as 100 Southcote Road (Ancaster) - Supported by the Planning and Economic Development Department but Denied by the Committee of Adjustment (PED11047) (Ward 12)	
SUBMITTED BY: Tim McCabe General Manager Planning and Economic Development Department	PREPARED BY: Daniel Barnett (905) 546-2424, Ext. 4445
SIGNATURE:	

RECOMMENDATION:

That Report PED11047, respecting Committee of Adjustment Consent Application AN/B-10:133 and Minor Variance Application AN/A-10:233, for the property known as 100 Southcote Road (Ancaster), as shown on Appendix "A" to Report PED11047, supported by the Planning and Economic Development Department, but Denied by the Committee of Adjustment, be received for information and no action be taken, per Option 3 of Report PED11047.

EXECUTIVE SUMMARY

The applicant submitted Consent Application AN/B-10:133 and Minor Variance Application AN/A-10:233 to permit the severance of a single-detached residential lot from a property containing an existing single-detached dwelling, for the lands located at 100 Southcote Road (Ancaster). The lands to be retained will front onto Southcote

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Road while the lands to be conveyed will front onto Lynda Lane (see Appendices “A” and “D”).

Applications AN/B-10:133 and AN/A-10:233 were considered before the Committee of Adjustment on December 9, 2010. Comments from staff to the Committee of Adjustment supported both applications, as they were considered to be consistent with the Provincial Policy Statement, in conformity to the Hamilton-Wentworth Official Plan, and maintained the intent and purpose of the Town of Ancaster Official Plan and the Zoning By-law.

The Committee of Adjustment denied the applications for the reasons provided in attached Appendices “B” and “C”. The decisions have been appealed to the Ontario Municipal Board (OMB) by the applicant. To date, an OMB hearing has not been scheduled.

Alternatives for Consideration - See Page 12.

FINANCIAL / STAFFING / LEGAL IMPLICATIONS (for Recommendation(s) only)

Financial: Planning and Economic Development Department staff supported the subject application. However, if Council wishes to support the Committee of Adjustment’s decision to deny the application, the City must retain an outside planning consultant, and any other experts who can professionally support the denial. In addition, because of staffing constraints in the Legal Department, and a high volume of appeals, outside legal counsel may also have to be retained. The hearing would likely take between one to three days. If an outside planning consultant is retained, the costs would be approximately \$3,000 to \$5,000 for each day of a hearing. The cost for external legal counsel would be several thousand dollars per day, or greater. In keeping with the funding source for other appeals where Council authorizes the retainer of outside consultants, the amount required to retain such experts to support the City’s position before the OMB would be funded first, through the 2011 Budget; second, through year-end Corporate Surpluses; and lastly, through the Tax Stabilization Reserve.

Staffing: One representative from Legal Services would be required for preparation and attendance at the OMB Hearing. However, as indicated above, Legal Services is currently experiencing staffing constraints and a high volume of hearings. It is highly likely that external legal counsel may need to be retained with respect to this appeal. One member of planning staff would attend as an expert witness at the hearing should Council support Option 2.

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Legal: No legal implications are expected.

HISTORICAL BACKGROUND (Chronology of events)

Roles and Responsibilities of the Committee of Adjustment (PD02116(a))

In December 2002, City Council endorsed a staff report related to the roles and responsibilities of the Committee of Adjustment. The recommendations included the following:

“That the Planning and Development Department be authorized and directed to prepare an Information Report to the Committee of the Whole when an appeal is made to the Ontario Municipal Board, of a decision made by the Committee of Adjustment to deny an application(s) that was supported by staff. In response to such a report, Council may determine its position on the Committee of Adjustment decision, and may instruct Legal Services to attend the Ontario Municipal Board Hearing, in support of the Committee’s decision, and to retain outside professional(s) accordingly.”

Proposal

The subject property is located at 100 Southcote Road (Ancaster) (see Appendix “A”). The consent application (AN/B-10:133) was to sever the rear 21.3m x 38.1m parcel of land fronting onto Lynda Lane for single-detached residential purposes, and to retain an irregular shaped 21.3m x 37.8m parcel of land containing an existing single-detached dwelling fronting onto Southcote Road for residential purposes (see Appendix “D”). In order to facilitate the proposed severance and the construction of a dwelling on the lands to be conveyed, and to recognize the existing dwelling on the lands to be retained, the applicant also applied for the following minor variances (AN/A-10:233):

Lands to be Conveyed:

- To permit the proposed lot frontage of 15m along Lynda Lane, whereas the minimum lot frontage requirement of the “ER” Zone is 18m;
- To permit a maximum lot coverage of 35.5%, whereas the By-law permits a maximum lot coverage of 35%; and,
- To permit a minimum northerly rear yard setback of 1.6m, whereas a minimum rear yard setback of 7.5m is required in the “ER” Zone.

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Lands to be Retained:

- To permit a minimum northerly and southerly rear yard setback of 1.5m, whereas a minimum rear yard setback of 7.5m is required in the “ER” Zone.

The variances for rear yard setback for both the lands to be conveyed and lands to be retained are technical variances that are required due to the fact that the Ancaster Zoning By-law defines all lot lines that are not the front lot line, or touching the front lot line, as rear lot lines. For the lands to be retained, the most easterly lot line running parallel to Southcote Road (see Appendix “D”) is defined as the front lot line, and the lot lines touching this line are side lot lines. All other lot lines, including the lot lines running along the side of the dwelling, are defined as rear lot lines (see Appendix “D”). For the lands to be conveyed, the lot frontage on Lynda Lane is defined as the front lot line; and the westerly lot line and the portion of the southerly lot line that is not fronting onto Lynda Lane are defined as the side lot lines (see Appendix “D”). Both the northerly and easterly lot lines are defined as rear lot lines, however, the northerly rear yard does not function as a rear yard, but as a side yard (see Appendix “D”).

The applications were reviewed against all applicable Provincial and Local planning policy documents. Planning staff recommended approval of both applications, subject to the applicable conditions of consent (see Appendix “E”), as the proposal is consistent with the Provincial Policy Statement, conforms to the Hamilton-Wentworth Official Plan, and maintains the intent and purpose of the Town of Ancaster Official Plan and Town of Ancaster Zoning By-law.

Only the variances to recognize the location of the existing single-detached dwelling on the lands to be retained were approved by the Committee of Adjustment.

POLICY IMPLICATIONS

Places to Grow

The application has been reviewed with respect to the Places to Grow - Growth Plan for the Greater Golden Horseshoe (P2G).

- “2.2.2.1 Population and Employment growth will be accommodated by:
- a) Directing a significant portion of new growth to the built-up areas of the community through intensification.

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2.2.3.1 By the year 2015, and for each year thereafter, a minimum of 40 per cent of all residential development occurring annually within each upper and single-tier municipality will be within the built-up area.”

As the proposal is to sever and create a new residential lot within the built-up area, the proposal conforms with the policies of the Places to Grow Plan.

Provincial Policy Statement (PPS)

The application has been reviewed with respect to the Provincial Policy Statement (PPS).

“1.1.3.1 Settlement Areas shall be the focus of growth, and their vitality and regeneration shall be promoted.

1.1.3.2 Land use patterns within Settlement Areas shall be based on:

a. Densities and a mix of land uses, which:

1. Efficiently use land and resources;
2. Are appropriate for, and efficiently use, the infrastructure and public service facilities which are planned or available, and avoid the need for their unjustified and/or uneconomical expansion; and,
3. Minimize negative impacts to air quality and climate change, and promote energy efficiency in accordance with Policy 1.8; and,

b. A range of uses and opportunities for intensification and re-development in accordance with the criteria in Policy 1.1.3.3.

1.1.3.3 Planning authorities shall identify and promote opportunities for intensification and re-development where this can be accommodated taking into account existing building stock or areas, including Brownfield sites, and the availability of suitable existing or planned infrastructure and public service facilities required to accommodate projected needs.

1.4.3 Planning authorities shall provide for an appropriate range of housing types and densities to meet projected requirements of current and future residents of the regional market area by:

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- b) Permitting and facilitating:
1. All forms of housing required to meet the social, health, and well-being requirements of current and future residents, including special needs requirements; and,
 2. All forms of residential intensification and re-development in accordance with Policy 1.1.3.3.”

As the proposal is to sever a residential lot from a property containing an existing single-detached dwelling within a Settlement Area, and to construct a new dwelling unit on the severed lot, the proposal is consistent with the Provincial Policy Statement.

Hamilton-Wentworth Official Plan

The subject property is designated “Urban Area” in the Hamilton-Wentworth Official Plan.

“C.3.1 A wide range of urban uses, defined through Area Municipal Official Plans and based on full municipal services, will be concentrated in the Urban Areas. These areas are intended to accommodate approximately 96% of new residential housing units in the Region to the year 2020. Accordingly, the Plan establishes a land use strategy for the Urban Area that consists of:

- Compact urban form, including mixed-use areas;

C.3.1.1 A compact higher density urban form, with mixed-use development in identified regional and municipal centres, and along corridors, best meets the environmental, social, and economic principles of sustainable development.

Mixed forms of development within an Urban Area are preferable to widespread, low density, residential development and scattered rural development, because:

- Growth can be accommodated by building on vacant or re-developed land without taking up agricultural lands or natural areas;
- Higher density development can reduce per capita servicing costs, and makes more efficient use of existing services;”

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As the proposal is to sever a residential lot from a property containing an existing single-detached dwelling and to construct a new dwelling unit on the severed lot, the proposal conforms to the Hamilton-Wentworth Official Plan.

Town of Ancaster Official Plan

The subject property is designated “Residential” in the Town of Ancaster Official Plan.

- “4.4.1 The predominant use of lands designated Residential on Schedule B shall be for dwellings in areas which will be supplied with urban services (sanitary and storm sewers and watermains).
- 4.4.14 The subdivision of land, in the area designated Residential by this Plan, shall be predominately by means of a Registered Plan of Subdivision in accordance with the Planning Act. However, the creation of new residential lots by means of “metes and bounds” conveyances, through the Consent of the Regional Land Division Committee, may be considered provided:
- i) The proposal does not involve more than the minor extension of an existing road;
 - ii) The proposal will not prejudice the future development of nearby lands or the location of future roads or services;
 - iii) The proposal is in compliance with the Zoning By-law and the Secondary Plan, where such a Plan exists at the time when this Plan is approved;
 - iv) Full municipal services are available;
 - v) The proposed lots are of a shape consistent with the existing lots in the general area;
 - vi) The proposed lots are of a size consistent with the existing lots in the general area and in accordance with the appropriate regulations of the Zoning By-law; and,
 - vii) The proposed lots are not within lands that are the subject of a subdivision application before the municipality.

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- 7.7.1.1 Land development will occur primarily by Registered Plan of Subdivision pursuant to the Planning Act. Where it is clearly not necessary, nor in the public interest that development of land proceeds by means of a Registered Plan, the division of land by Consent of the Land Division Committee may be considered.
- 7.7.1.2 When considering any application for consent for the division of land for any purpose, conformity with the following provisions is required:
- i) No consent shall be permitted unless the proposal is in compliance with the policies of this Plan, the Regional Official Plan, Niagara Escarpment Plan, approved settlement capability studies, the requirements of the Planning Act and the Minimum Distance Separation Formula of the Agricultural Code of Practice.
 - ii) No Consent shall be finalized unless the proposal is in conformity with the Zoning By-law.
 - iii) That the lot to be retained and the lot to be severed must have frontage on, and have direct access to an open, improved public road which is maintained on a year-round basis.
 - vi) Severances within the Urban Area Boundary shall be permitted only where the proposed development is serviced by municipal sewer and water systems, or the services have been committed to be extended.”

As the proposal is to create a new residential lot that is similar in size and shape to other properties in the area, and as the proposal is to construct a new dwelling unit on the lands to be severed, the proposal conforms to the Town of Ancaster Official Plan.

City of Hamilton Urban Official Plan:

The subject property is designated “Neighbourhoods” in the Urban Hamilton Official Plan, which is Council-adopted. The Minister issued the decision on the Urban Official Plan on March 16, 2011, but the decision is in an Appeal period until April 5, 2011.

- ”E.3.2.3 The following uses shall be permitted on lands designated Neighbourhoods on Schedule E-1 - Urban Land Use Designations:
- a) Residential dwellings, including second dwelling units and housing with supports;

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E.3.2.13 The City supports residential intensification on lands within the Neighbourhoods designation in accordance with Section B.2.4 - Residential Intensification Policies, F.1.14 - Lot Creation, and other applicable policies.

B.2.4 Residential intensification is a key component of Hamilton's growth strategy, and is essential to meet our growth and employment targets. Intensification ensures land, urban services, and the transportation network are used more efficiently and sufficient population is maintained to support existing community facilities. Successfully accommodating more residents within the existing built-up area reduces the need for development of Greenfield lands and urban boundary expansions.

F.1.14.3.1 Consents for new lot creation, for both the severed and retained lands, for residential uses in the Neighbourhoods designation shown on Map E-1 - Urban Land Use Designation, shall be permitted, provided the following conditions are met:

- a) The lots comply with the policies of this Plan, including secondary plans, where one exists;
- b) The lots comply with existing Neighbourhood Plans;
- c) The lots are in conformity with the Zoning By-law or a minor variance is approved;
- d) The lots reflect the general scale and character of the established development pattern in the surrounding area by taking into consideration lot frontages and areas, building height, coverage, mass, setbacks, privacy, and overview;
- e) The lots are fully serviced by municipal water and wastewater systems; and,
- f) The lots have frontage on a public road."

As the proposed residential lots will reflect the general scale and character of the established development pattern in the surrounding area, and are on full municipal services, the proposal would conform to the policies of the new Urban Hamilton Official Plan.

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RELEVANT CONSULTATION

- Legal Services Division.

ANALYSIS / RATIONALE FOR RECOMMENDATION

(include Performance Measurement/Benchmarking Data, if applicable)

The subject lands are zoned Existing Residential “ER” Zone and Deferred Development “D” Zone in the Town of Ancaster Zoning By-law. The portion of the subject lands containing the existing dwelling and the proposed lot are zoned “ER” Zone and, therefore, variances to the “ER” Zone are required to facilitate the severance application. The “ER” Zone permits single-detached dwellings, therefore, the proposed use is permitted subject to the applicable performance standards in the Zoning By-law.

Consent Application AN/B-10:133

The lands to be retained will meet the minimum lot frontage requirement of 18m and the minimum lot area requirement of 695 sq. m. The proposed lands to be severed will meet the minimum lot area requirement of 695 sq. m., but will not comply with the minimum lot frontage requirement of 18m. However, the lands to be severed would have a lot width of over 38.1m and a depth of 21.3m, which will be compatible with the surrounding neighbourhood and will maintain the streetscape character of the area.

Minor Variance Application AN/A-10:233

Variance (Lot Frontage) Lands to be Conveyed:

The intent and purpose of requiring a minimum frontage of 18m is to maintain streetscape character.

The proposed variance meets the intent and purpose of the Zoning By-law. The proposed variance is required due to the unusual orientation of the lot relative to Lynda Lane. Notwithstanding the unusual orientation, the proposed 15m lot frontage will maintain the streetscape character of the area. Furthermore, the proposed lands to be severed will maintain a lot width of 38.1m and a depth of 21.3m, which is compatible with the lot patterns in the area.

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Variance (Lot Coverage) Lands to be Conveyed:

The intent and purpose of requiring a maximum lot coverage of 35% is to maintain streetscape character by preventing overbuilding, to maintain adequate amenity area, and to maintain adequate porous land area.

The proposed 0.5% increase in lot coverage is minor and meets the intent and purpose of the Zoning By-law.

Variance (Rear Yard Setback) Lands to be Conveyed:

The intent and purpose of requiring a minimum rear yard setback of 7.5m is to provide adequate private amenity space.

The proposed variance meets the intent and purpose of the Zoning By-law. The variance is required due to the fact that the property is irregular and does not face Lynda Lane in a traditional manner. The Town of Ancaster Zoning By-law defines all lot lines that are not the front lot, and are not touching the front lot line, as rear lot lines. As such, both the northerly lot line and the easterly lot line are considered rear lot lines (see Appendix "D"), however, based on the orientation of the dwelling, the northerly yard functions as a side yard, while the easterly lot line functions as a rear yard. The lands to be severed will maintain 267m² of amenity area between the dwelling and the easterly rear lot line, which will provide an adequate private amenity area.

Variances (Rear Yard Setback) Lands to be Retained:

The intent and purpose of requiring a minimum rear yard setback of 7.5m is to provide adequate private amenity space.

The proposed variances meet the intent and purpose of the Zoning By-law. The variances are required due to the fact that the property is irregular in shape and the front lot line is defined as the most easterly lot line. The Town of Ancaster Zoning By-law defines all lot lines that are not the front lot, and are not touching the front lot line, as rear lot lines. As such, the northerly, southerly, and westerly lot lines are defined as rear lot lines (see Appendix "D"). Based on the orientation of the dwelling, both the northerly and southerly yard will function as side yards, while the westerly yard will function as a rear yard. The lands to be retained will maintain 275m² of amenity area between the dwelling and the westerly rear lot line, which will provide an adequate private amenity area. Furthermore, the proposed variances are required to recognize an existing dwelling and, therefore, there will be no alterations to the property as a result of the proposed variances.

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With respect to the proposed applications, staff is of the opinion that the proposal is consistent with all applicable Provincial policies, conforms to the policies of the Hamilton-Wentworth Official Plan, and meets the intent and purpose of the Town of Ancaster Official Plan and Zoning By-law, and meets all four tests of a minor variance under Section 45 of the Planning Act. Therefore, staff recommended that the applications be approved, subject to the conditions outlined in Appendix "E".

ALTERNATIVES FOR CONSIDERATION:

(include Financial, Staffing, Legal and Policy Implications and pros and cons for each alternative)

Option 1

Council may instruct Legal Services to attend the Ontario Municipal Board Hearing, in support of the Committee of Adjustment decision, and to retain outside professional(s).

Option 2

Council may decide to support the appeal against the Committee of Adjustment's decision to deny, and direct Legal Services to attend the Ontario Municipal Board Hearing in support of the appeal to the applications, and to use City Planning staff as its professional witness.

Option 3

Council may decide to not send Legal Services to the Ontario Municipal Board, either in support of the Committee's decision, or against the decision.

CORPORATE STRATEGIC PLAN (Linkage to Desired End Results)

Focus Areas: 1. Skilled, Innovative and Respectful Organization, 2. Financial Sustainability, 3. Intergovernmental Relationships, 4. Growing Our Economy, 5. Social Development, 6. Environmental Stewardship, 7. Healthy Community

Financial Sustainability

- ◆ Effective and sustainable Growth Management.

Social Development

- ◆ Everyone has a home they can afford that is well maintained and safe.

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Environmental Stewardship

- ◆ Natural resources are protected and enhanced.
- ◆ Reduced impact of City activities on the environment.

Healthy Community

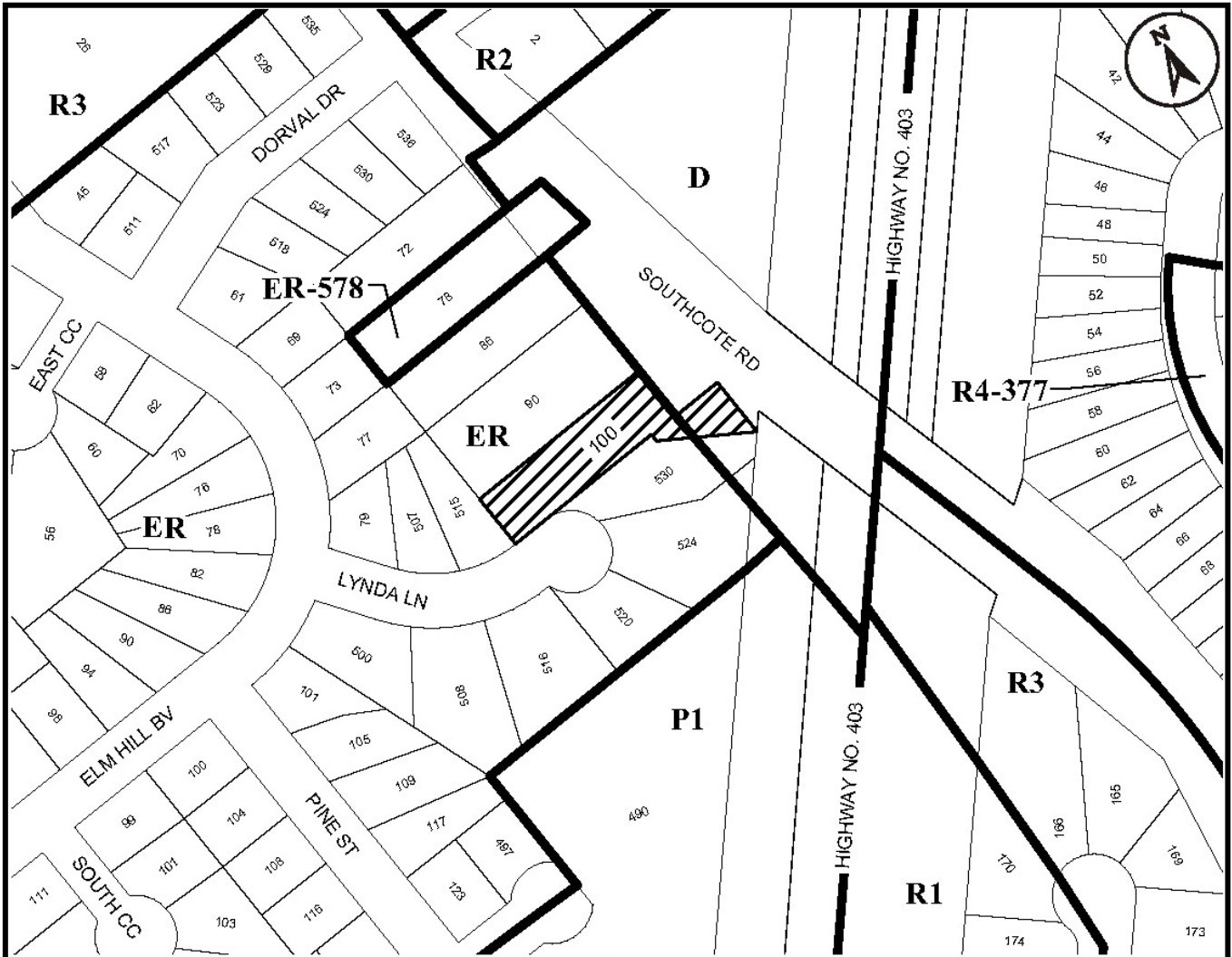
- ◆ Plan and manage the built environment.

APPENDICES / SCHEDULES

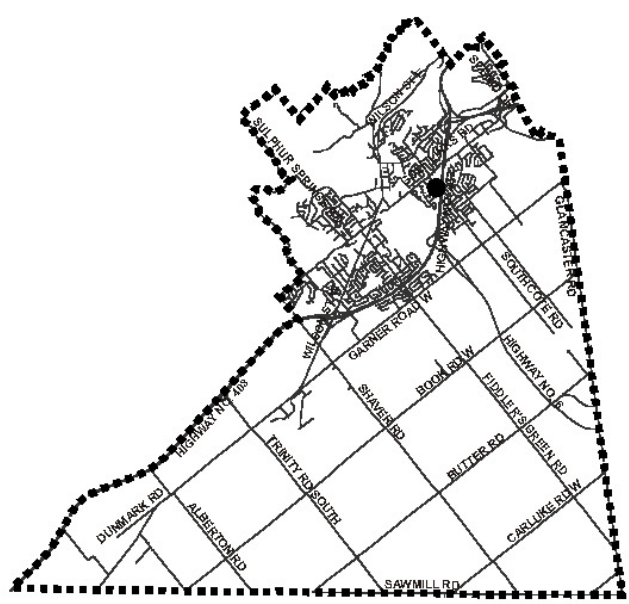
- Appendix "A": Location Map
- Appendix "B": AN/B-10:133 Consent Decision
- Appendix "C": AN/A-10:233 Minor Variance Decision
- Appendix "D": Severance Sketch
- Appendix "E": AN/B-10:133 Consent Conditions

:DB

Attachs. (5)



● Site of the Application



Ward 12 Key Map

N.T.S.

Location Map



PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

File Name/Number:
AN/B-10:133/AN/A-10:233

Date:
February 8, 2011

Appendix "A"

Scale:
N.T.S.

Planner/Technician:
DB/NB

Subject Property



100 Southcote Road, Ancaster



Committee of Adjustment
Hamilton City Hall
71 Main Street West, 6th floor
Hamilton, ON L8P 4Y5
Telephone (905) 546-2424, ext. 4221
Fax (905) 546-4222

COMMITTEE OF ADJUSTMENT
NOTICE OF DECISION

APPLICATION FOR CONSENT/LAND SEVERANCE

APPLICATION NO. AN/B-10:133
SUBMISSION NO. B-133/10

IN THE MATTER OF The Planning Act, R.S.O. 1990, Chapter P13, Section 53(1);

AND IN THE MATTER OF the Premises known as Municipal number 100 Southoote Road, formerly in the Town of Ancaster, now in the City of Hamilton;

AND IN THE MATTER OF AN APPLICATION by the agent Urbex Engineering Limited (A.J. Cameracci) on behalf of the owner Sandra Gina Dussin, for consent under Section 53(1) of The Planning Act, R.S.O. 1990, Chapter 13, so as to permit the conveyance of a vacant parcel of land (shown as Part 2) measuring 15.05m± (49.37'±) x 38.10m± (125'±) for single family residential purposes, and to retain a parcel of land (shown as Part 1) having a frontage of 21.33m± (70'±) and an area of 0.12ha± (0.3ac.±) containing a newly constructed single family dwelling for residential purposes.

THE DECISION OF THE COMMITTEE IS:

That the said application, as set out in paragraph three above, **IS DENIED** for the following reasons:


1. The Committee, having performed a site inspection of the subject property and surrounding area, is of the opinion that the proposal is not in the interest of proper planning and development and is not in keeping with the existing character of this neighbourhood.
2. The proposal does not comply with the requirements of the Zoning By-law.
3. The proposal does not comply with Section 51(24) of The Planning Act.

DATED AT HAMILTON this 9th day of December, 2010.


M. Dudzic, Chairman


C. Lewis


L. Tew


D. Smith


D. Drury


L. Gaddy


M. Switzer

THE DATE OF GIVING OF THIS NOTICE OF DECISION IS December 16th, 2010.

NOTE: THE LAST DATE ON WHICH AN APPEAL TO THE ONTARIO MUNICIPAL BOARD MAY BE FILED IS **January 5th, 2011**

NOTE: THIS DECISION IS NOT FINAL AND BINDING UNLESS OTHERWISE NOTED.



Hamilton

Committee of Adjustment
Hamilton City Hall
71 Main Street West, 5th floor
Hamilton, ON L8P 4Y5
Telephone (905) 546-2424, ext. 4221
Fax (905) 546-4202

COMMITTEE OF ADJUSTMENT
DECISION OF THE COMMITTEE

APPLICATION NO. AN/A-10:233
SUBMISSION NO. A-233/10

IN THE MATTER OF The Planning Act, R.S.O., 1990, c.P. 13, as amended and of the Zoning By-Law No. 87-57, of the City of Hamilton (formerly Ancaster), Section 10.

AND IN THE MATTER OF the Premises known as Municipal number 100 Southcote Road, formerly in the Town of Ancaster, now in the City of Hamilton and in an "ER" (Existing Residential) and "D" (Deferred Development) district;

AND IN THE MATTER OF AN APPLICATION, AS AMENDED, by the agent Urbex Engineering (A.J. Cameracci) on behalf of the owner Sandra Gina Dussin, for relief from the provisions of the Zoning By-Law No. 87-57, under Section 45 of The Planning Act, R.S.O. 1990, c. P. 13, so as to permit the construction of a new single detached dwelling on the proposed lands to be conveyed notwithstanding that:

- 1) A minimum lot frontage of 15.0m shall be provided instead of the minimum required lot frontage of 18.0m;
- 2) A maximum lot coverage of 35.5% (286.5m²) shall be provided instead of the maximum lot coverage of 35% (284.5m²); and,
- 3) A minimum rear yard of 1.6m, with further eave projection, shall be provided instead of the minimum required rear yard of 7.5m.

Also, to recognize the location of the existing single detached dwelling on the lands to be retained notwithstanding that:

- 1) A minimum northerly rear yard of 1.5m, with further eave projection, shall be permitted instead of the minimum required 7.5m; and,
- 2) A minimum southerly rear yard of 1.5m, with further eave projection, shall be permitted instead of the minimum required 7.5m.

Notes:

- i) This application is necessary to facilitate consent application AN/B-10:133.
- ii) This is a corner lot. Based on "front lot line" as defined, the lot line adjacent to Southcote Road with the length of 19.772m is considered the front lot line for this property. As such, the other lot line adjacent to Southcote Road with the length of 21.336m is considered a side lot line as well as the lot line with the length of 23.046m and the bearing N12°32'30"W. Based on the definition of "rear lot line" all lot lines besides the front lot line and two side lot lines would be considered rear lot lines.
- iii) The submitted elevation drawings do not indicate the height of the proposed detached dwelling. As such, compliance in regards to building height cannot be determined and a further variance may be required.
- iv) The construction of the proposed detached dwelling is subject to the issuance of a building permit in the normal manner.

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Decision
Page 2

THE DECISION OF THE COMMITTEE IS:

That the variances, to permit the construction of a new single detached dwelling on the proposed lands to be conveyed, are **DENIED** for the following reasons:

1. The Committee having regard to the evidence is of the opinion that the relief requested is beyond that of a minor nature.
2. The relief requested is undesirable for the appropriate development of the land and building and is inconsistent with the general intent and purpose of the By-law and of the Official Plan as referred to in Section 45 of The Planning Act, 1990.
3. The Committee having regard to the intensity of use of the subject parcel of land is of the opinion that such development would not be appropriate for the lands.

That the variances, to recognize the location of the existing single detached dwelling on the lands to be retained, are **GRANTED** for the following reasons:

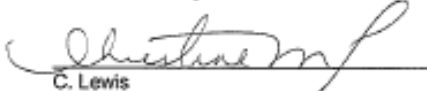
1. The Committee having regard to the evidence is of the opinion that the relief granted is of a minor nature.
2. The relief granted is desirable for the appropriate development of the land and building and is not inconsistent with the general intent and purpose of the By-law and the Official Plan as referred to in Section 45 of The Planning Act, 1990.
3. The Committee having regard to the evidence is satisfied that there will be no adverse impact on any of the neighbouring lands.

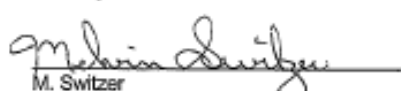
DATED AT HAMILTON this 9th day of December, 2010.

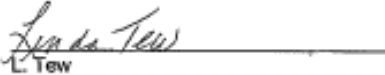

M. Dudzic (Chairman)

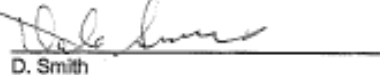

L. Gaddy


D. Drury


C. Lewis


M. Switzer


L. Tew


D. Smith

NOTE: THE LAST DATE ON WHICH AN APPEAL TO THE ONTARIO MUNICIPAL BOARD
MAY BE FILED IS **December 29th, 2010**.

NOTE: This decision is not final and binding unless otherwise noted.

October 14th, 2010

**CONSOLIDATION REPORT
SEVERANCES**

The attached comments have been reviewed with regard to Committee of Adjustment Severance File AN/B-10:133 (100 Southcote Road, Ancaster) and the following is submitted:

Should the Committee grant the severance, an approval should be subject to the following conditions:

1. The owner shall submit a deposited Ontario Land Surveyor's Reference Plan to the Committee of Adjustment Office, unless exempted by the Land Registrar.
2. The proponent shall carry out an archaeological assessment of the conveyed portion of the property and mitigate, through preservation or resource removal and documentation, adverse impacts to any significant archaeological resources found. No demolition, grading, construction activities, landscaping, staging, stockpiling or other soil disturbances shall take place on the subject property prior to the approval of the Director of Planning and the Ministry of Tourism and Culture confirming that all archaeological resource concerns have met licensing and conservation requirements. All archaeological reports shall be submitted to the City of Hamilton concurrent with their submission to the Ministry of Tourism and Culture.

Should deeply buried archaeological materials be found on the property during any of the above development activities the Ontario Ministry of Tourism and Culture (MTC) should be notified immediately (416.314.7143). In the event that human remains are encountered during construction, the proponent should immediately contact both MTC and the Registrar or Deputy Registrar of the Cemeteries Regulation Unit of the Ministry of Small Business and Consumer Services (416.326.8392).

3. The owner/applicant shall include the following warning clause in the consent/development agreement and in all purchase and sale and/or lease/rental agreements:

"Purchasers/tenants are advised that sound levels due to increasing road traffic may occasionally interfere with some activities of the dwelling occupants as the sound levels may exceed the Municipality's and the Ministry or the Environment's noise criteria."

4. The applicant shall receive final approval of any necessary variances from the requirements of the Zoning By-law as determined necessary by the Planning and Economic Development Department (Building Services Division).
5. The 1ft reserve along Lynda Lane shall be lifted to the satisfaction of the Manager of Development Planning.

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6. The applicant shall enter into and allow to have registered on title of the lands, a Consent Agreement with the City of Hamilton to the satisfaction of the Director of Development Engineering to deal with the grading and drainage on the subject lands. The applicant shall demonstrate to the satisfaction of the Director of Development Engineering that all drainage from the site shall be taken to a suitable outlet.
7. The owner shall pay to the City of Hamilton the future urbanization costs of Lynda Lane based on the New Road Servicing Rate for the year that final approval is obtained, to the satisfaction of the Manager of Development Engineering.
8. The owner shall dedicate to the City of Hamilton by deed, 10 feet (3.048m) of land from the lands to be retained for road allowance widening purposes, to the satisfaction of the Manager of Development Engineering.
9. The owner shall have the existing sanitary sewer lateral on Lynda Lane video inspected, while the City of Hamilton Sewer Inspector is present, to the satisfaction of the Manager of Engineering Design and Construction.
10. The owner shall pay the required commutation amount of Local Improvement Charges to Budgets & Finance, City of Hamilton.
11. The owner shall pay any outstanding realty taxes and/or all other charges owing to the City Treasurer.
12. The owner submit to the Committee of Adjustment office an administration fee of \$15.00 payable to the City of Hamilton to cover the costs of setting up a new tax account for the newly created lot.

Note (To Be Included In Decision If Approved):

- 1) Based on the attached plans, and on this application being approved and all conditions being met, the owner/applicant should be made aware that the lands to be conveyed (Part 2) will be assigned the municipal address of 521 Lynda Lane, and that the lands to be retained will remain as 100 Southcote Road.