## SUBJECT:
Committee of Adjustment (Urban) Severance Applications AN/B-06:149 and AN/B-06:150 for the Property Known as 85 Academy Street, Ancaster - Supported by the Planning and Economic Development Department (PED07037) (Ward 12)

## RECOMMENDATION:

That Report PED07037, respecting Committee of Adjustment Severance Applications AN/B-06:149 and AN/B-06:150, 85 Academy Street, Ancaster, as shown on Appendix “A” to Report PED07037, denied by the Committee but supported by the Planning and Economic Development Department, be received for information.

Lee Ann Coveyduck  
General Manager  
Planning and Economic Development Department

## EXECUTIVE SUMMARY:

Two severance applications were submitted to permit the creation of three lots for single-detached dwellings.  The first application (AN/B-06:149, Appendix “B”) proposed the creation of a flag shaped property at the rear of 85 Academy Street, which would access the street via a private driveway.  The second application (AN/B-06:150, Appendix “C”) proposed to further divide the retained portion of 85 Academy Street.  The proposed severed property would be rectangular in shape, while the retained lands would be irregular in shape.  Both applications were considered before the Committee of Adjustment (Urban) on November 1, 2006.  Comments to the Committee of Adjustment from staff supported the requested severance applications, subject to conditions, as they were consistent with the Provincial Policy Statement and in conformity with the Hamilton-Wentworth and Ancaster Official Plans.
The Committee's decision to deny the applications (Appendix "D") was appealed to the Ontario Municipal Board by the applicant. An Ontario Municipal Board Hearing has yet to be scheduled.

BACKGROUND:

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 whenever 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

Severance applications AN/B-06:149 and AN/B-06:150 were submitted to permit the creation of three lots for single-detached dwellings. The proposed lot configurations are shown on Appendices “B” and “C”. No minor variance or rezoning applications are required for the proposal.

ANALYSIS/RATIONALE:

The predominate zoning in the immediate area is the “ER” (Existing Residential) Zone (Appendix “A”). The lots in the vicinity vary in frontage and area and several lots, including the subject lands, are irregular in shape.

The “ER” (Existing Residential) Zone requires a minimum lot frontage of 18 metres and a minimum lot area of 695 square metres. The resulting parcels of land will meet the minimum lot area and frontage requirements of the By-law. In addition, it is considered that given the range of lot areas and frontages in the vicinity, the proposed residential lots would be compatible with the character of the streetscape.

With respect to application AN/B-06:149 (Appendix “B”), staff noted that the lands to be severed will contain an existing garage, and since a garage is an accessory use, it must be accessory to a principal use on the same lot. Therefore, staff requested that the garage be demolished as a condition of final approval.
Severance application AN/B-06:149 would result in the creation of a flag shaped lot. While a comprehensive redevelopment of this property with adjacent properties (i.e. new subdivision plan) would potentially generate a more consistent and regular division of land, in the absence of such an opportunity, the proposed severances are supportable provided they are subject to site plan approval as a form of innovative housing. This would provide the opportunity to address issues related to compatibility in terms of dwelling location and orientation, internal movement, parking, access arrangements and landscaping/buffering.

Staff, in their comments to the Committee of Adjustment, raised concerns about the irregular shape of the retained property to be created through application AN/B-06:150 (Appendix “C”). However, it was considered that the building envelope on the property is of an adequate size to develop a dwelling unit of the minimum size required by the By-law. The existing dwelling straddles the proposed property line and, as such, prior to the final approval of these applications, the dwelling would have to be moved off the property line or demolished.

In staff’s opinion, the proposal is an appropriate residential infill development for the area. The proposed severances are consistent with the Provincial Policy Statement (Policy 1.1.3.1) which indicates that growth shall be focused in settlement areas. The lands are designated “Urban Area” in the Hamilton-Wentworth Official Plan and the proposal conforms to the Plan. The Ancaster Official Plan designates the lands “Residential”, which permits single-detached dwellings and the applications conform.

In staff’s opinion, the proposal satisfies Section 51(24) of the Planning Act regarding the criteria for provisional consent approvals.

**ALTERNATIVES FOR CONSIDERATION:**

**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 application 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.
FINANCIAL/STAFFING/LEGAL IMPLICATIONS:

Financial: Planning and Economic Development Department staff supported the subject applications. However, if Council wishes to support the Committee denial, the City must retain an outside planning consultant who can professionally support the denial. If retained, the cost of hiring the planner for the hearing is estimated at $2,500 to $5,000. In addition, one lawyer from Legal Services would be required for preparation and attendance at the hearing. Legal and planning staff costs are covered by the respective Departmental Work Programs/Budgets.

Staffing: One representative from Legal Services would be required for preparation and attendance at the Ontario Municipal Board Hearing, and one member of planning staff would attend as an expert witness at the hearing should Council support Option 2 above.

Legal: N/A.

POLICIES AFFECTING PROPOSAL:

Provincial Policy Statement

The applications have been reviewed with respect to the Provincial Policy Statement (PPS). Staff recognizes that the applications are consistent with the policies that focus growth in settlement areas (Policy 1.1.3.1).

Hamilton-Wentworth Official Plan

The subject property is designated “Urban Area” in the Hamilton-Wentworth Official Plan. The Hamilton-Wentworth Official Plan, under Policy C-3.1, outlines that 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. Urban Areas are intended to accommodate approximately 96% of new residential housing units in the Region to the year 2020.

As the nature of the applications would permit the creation of two additional residential lots, where municipal services are available, the proposal is consistent with the policies of the Hamilton-Wentworth Official Plan.

Town of Ancaster Official Plan

The subject lands are designated “Residential” on Schedule B – Detail ‘A’ – Land Use – Urban Area of the Town of Ancaster Official Plan, which permits single-detached dwellings. The applications conform to the Official Plan.
Town of Ancaster Zoning By-Law

The subject property is zoned “ER” (Existing Residential) Zone under the Town of Ancaster Zoning By-law. The lots will conform to the minimum lot frontage and area requirements of the Zoning By-law.

RELEVANT CONSULTATION:

- Legal Services Division.

CITY STRATEGIC COMMITMENT:

By evaluating the “Triple Bottom Line”, (community, environment, economic implications) we can make choices that create value across all three bottom lines, moving us closer to our vision for a sustainable community, and Provincial interests.

Community Well-Being is enhanced. ☑ Yes ☐ No
The public are involved in the definition and development of local solutions.

Environmental Well-Being is enhanced. ☑ Yes ☐ No
Human health and safety are protected.

Economic Well-Being is enhanced. ☑ Yes ☐ No
Investment in Hamilton is enhanced and supported.

Does the option you are recommending create value across all three bottom lines? ☑ Yes ☐ No

Do the options you are recommending make Hamilton a City of choice for high performance public servants? ☐ Yes ☑ No

:EJ

Attachs. (4)
COMMITTEE OF ADJUSTMENT
NOTICE OF DECISION
APPLICATION FOR CONSENT/LAND SEVERANCE
APPLICATION NO. AN/B-06:149
SUBMISSION NO. B-149/06

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 85 Academy Street, formerly in the Town of Ancaster, now in the City of Hamilton;

AND IN THE MATTER OF AN APPLICATION by the agent Robert Wynne on behalf of the owner Pamela Stearns, for consent under Section 53(1) of The Planning Act, R.S.O. 1990, Chapter 13, so as to permit the conveyance of an irregular-shaped parcel of land having a frontage of 18.28m± (60'±), and an area of 1,332.88m²± (14,347ft²±) containing an existing garage (to be demolished) for single family residential purposes, and to retain an irregular-shaped parcel of land having a frontage of 42.66m± (139.9'±), and an area of 1,658.11m²± (17,848ft²±) containing an existing single family dwelling for residential purposes.

THE DECISION OF THE COMMITTEE IS:

That the said application IS DENIED for the following reason:

1. The Committee, after viewing the property, is of the opinion that if three homes are constructed on the proposed lots, the character of the existing neighbourhood would not be maintained.

2. The proposal does not comply with Section 51(24) of the Planning Act.

DATED AT HAMILTON this 1st day of November, 2006.

M. Dudzic, Chairman

D. Drury

V. Abraham

C. Lewis

THE DATE OF GIVING OF THIS NOTICE OF DECISION IS November 8th, 2006.

NOTE: THE LAST DATE ON WHICH AN APPEAL TO THE ONTARIO MUNICIPAL BOARD MAY BE FILED IS November 28th, 2006.

NOTE: THIS DECISION IS NOT FINAL AND BINDING UNLESS OTHERWISE NOTED.
COMMITTEE OF ADJUSTMENT
NOTICE OF DECISION

APPLICATION FOR CONSENT LAND SEVERANCE

APPLICATION NO. AN/B-06:150
SUBMISSION NO. B-150/06

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 85 Academy Street, formerly in the Town of Ancaster, now in the City of Hamilton;

AND IN THE MATTER OF AN APPLICATION by the agent Robert Wynne on behalf of the owner Pamela Stearns, for consent under Section 53(1) of The Planning Act, R.S.O. 1990, Chapter 13, so as to permit the conveyance of a parcel of land having a frontage of 21.33m± (69.9'±), and an area of 912.04m²± (9,817ft²±) containing an existing single family dwelling for residential purposes, and to retain an irregular-shaped vacant parcel of land having a frontage of 21.33m± (69.9'±), and an area of 722.81m²± (7,780.6ft²±) for single family residential purposes.

THE DECISION OF THE COMMITTEE IS:

That the said application IS DENIED for the following reason:

1. The Committee, after viewing the property, is of the opinion that if three homes are constructed on the proposed lots, the character of the existing neighbourhood would not be maintained.

2. The proposal does not comply with Section 51(24) of the Planning Act.

DATED AT HAMILTON this 1st day of November, 2006.

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