SUBJECT: Committee of Adjustment Consent/Land Severance Application GL/B-08:159 and Minor Variance Application GL/A-08:318, for the Property Located at 92 Strathearn Place, Glanbrook - Supported by the Planning and Economic Development Department (PED09061) (Ward 11)

RECOMMENDATION:

That Report PED09061, respecting Committee of Adjustment Consent/Land Severance Application GL/B-08:159 and Minor Variance Application GL/A-08:318, 92 Strathearn Place, Glanbrook, as shown on Appendix “A” to Report PED09061, denied by the Committee, but supported by the Planning and Economic Development Department, be received for information.

EXECUTIVE SUMMARY:

A proposed severance and associated variance to permit the conveyance of a vacant parcel of land with a lot frontage of 22.5 metres and a lot area of approximately 1,201 square metres for single detached residential purposes, and to retain a parcel of land with a lot frontage of 37.38 metres and a lot area of approximately 2,000 square metres containing an existing single detached dwelling, were considered before the Committee of Adjustment on January 15, 2009 (see Appendix “B”). Comments to the Committee of Adjustment from staff supported the requested severance and minor variance
applications, as the proposal was consistent with the Provincial Policy Statement, and was in conformity with the policies of the Hamilton-Wentworth Official Plan and the Glanbrook Official Plan. Staff also supported the reduced lot area on the basis that the proposed lot was compatible with existing residential lots on Strathearn Place, and that the variance was considered to be minor in nature, desirable for the appropriate use of the lands, and in keeping with the general intent and purpose of the Official Plan and Zoning By-law.

The applications were tabled until January 29, 2009, to allow the Committee to conduct a site visit. Subsequently, the Committee denied the applications (see Appendix “C”).

The Committee’s decision to deny the applications was appealed to the Ontario Municipal Board by the Owners of the land. To date, an Ontario Municipal Board Hearing has not been 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 Application GL/B-08:159 and Minor Variance Application GL/A-08:318 were submitted to permit the conveyance of a vacant parcel of land with a lot frontage of 22.5 metres and a lot area of approximately 1,201 square metres (Part 1) for single detached residential purposes, and to retain a parcel of land with a lot frontage of 37.38 metres and lot area of approximately 2,000 square metres containing an existing single detached dwelling, notwithstanding that a minimum lot area of 1,200.0 square metres shall be provided for (Part 1) instead of the minimum required 1,390.0 square metres (see Appendix “B”).
The subject lands are located on the north side of Strathearne Place, west of Homestead Drive (Appendix “A”) in the Mount Hope Urban Area. The east portion of Strathearne Place is characterized by larger lot frontages ranging from approximately 25.0 metres to 35.0 metres, while the west end of Strathearne Place is characterized mainly by smaller lot frontages ranging from approximately 10.0 metres to 16.0 metres, which were developed as part of “Southampton Estates - Phase 1”, registered as Plan 62M-992 on December 12, 2003 (Appendix “D”).

A variety of residential zones exist along Strathearne Place: Existing Residential “ER” Zone, which requires a minimum lot frontage of 22.5 metres and a minimum lot area of 1,390 square metres; Residential “R1” Zone, which requires a minimum lot frontage of 22.0 metres and a minimum lot area of 700 square metres; and Residential “R3” Zone, which requires a minimum lot frontage of 15.0 metres and a minimum lot area of 450 square metres (see Appendix “A”).

Staff is of the opinion that the proposal is an appropriate residential infill for the area. The proposed 37.38 metre (lands to be retained) and 22.5 metre (lands to be conveyed) wide lots meet the requirements of the Zoning By-law in terms of frontage. Although the lands to be conveyed do not meet the minimum lot area of 1,390.0 square metres, staff is of the opinion that the proposed lot maintains a consistent streetscape, and is in keeping with the character of the existing residential neighbourhood and development in the surrounding area.
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 seek out 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. These costs are covered by the respective Departmental Work Programs/Budgets. Therefore, no additional funds would be required.

Staffing: One representative from Legal Services would be required for preparation and attendance at the Ontario Municipal Board Hearing.

Legal: No legal implications are expected.

POLICIES AFFECTING PROPOSAL:

Provincial Policy Statement (PPS)

The application has been reviewed with respect to the Provincial Policy Statement, 2005 (PPS). As the nature of the application is for the creation of one new building lot, where full municipal services are available, the proposal is consistent with the policies of the PPS.

Hamilton-Wentworth Official Plan

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

Glanbrook Official Plan

The subject lands are designated “Residential” on Schedule ‘A’ Land Use Plan and “Low Density Residential” on Schedule ‘C’ - Mount Hope Urban Settlement Area Land Use Plan in the Glanbrook Official Plan.
SUBJECT: Committee of Adjustment Consent/Land Severance Application GL/B-08:159 and Minor Variance Application GL/A-08:318, for the Property Located at 92 Strathearn Place, Glanbrook - Supported by the Planning and Economic Development Department (PED09061) (Ward 11) - Page 5 of 7

Subsection B.2.1.4 states:

“Residential development shall proceed in an orderly manner, and shall conform to the comprehensive policies of the Secondary Plan(s) to be prepared and approved for the Residential areas pursuant to Section G.4 of this Plan. Residential development of a limited nature may be considered in advance of the preparation and approval of a Secondary Plan, providing that such development:

(a) Is of an infilling nature, or will not result in the extension to the built-up portion of the settlement area;

(b) Is consistent and compatible with the existing surrounding development;

(c) Can be adequately serviced with sanitary sewage disposal facilities, a water supply and storm drainage facilities in accordance with the requirements of the appropriate agencies; and,

(d) Will not prejudice the preparation of a Secondary Plan by limiting consideration of land use options.”

Subsection B.2.1.19 (c) Residential Intensification states:

“Council supports and encourages residential development such as infilling, redevelopment, and the conversion of residential and non-residential structures that make more efficient use of the existing building stock and/or physical infrastructure provided the development is compatible and complementary to the established development pattern.”

Policies for the Mount Hope Urban Settlement Area, Subsection B.2.1.24.1 (a) (i) state:

“The following Objectives constitute the fundamental guidelines which shall direct the development of all lands within the Mount Hope Urban Settlement Area which are designated Residential on Schedule ‘A’ - Land Use Plan and these same lands as designated on Schedule ‘C’ - Mount Hope Urban Settlement Area Land Use Plan, of the Official Plan.

(a) **Residential**

(iii) To ensure that future residential development shall consider and be sensitive to existing residential development, and that it shall also provide for the redevelopment of the vacant portions of existing large lot residential development.”
Subsection D.3 provides policies for Land Severances within the Urban Area, which state:

“Consents for severance within the Urban Area will be given consideration only if the applicant demonstrates that his or her application for consent is warranted and in conformity with the following policies:

(a) Consents for severance shall be prohibited where adequate services, including sanitary sewerage facilities and a potable water supply, are not available;

(b) At the time full municipal services are available to the specific Urban Area, consents for severance shall be discouraged for any land therein which does not have full municipal services;

(c) Consents for severance shall not exceed the Urban Area beyond that which is designated by this Plan on Schedule ‘A’ - Land Use Plan;

(d) The subject land is fronting on an existing public roadway;

(e) The proposed severance shall not prejudice planned orderly development; and,

(f) The proposed severance shall conform with the other relevant policies of this Plan.”

The application conforms to the Glanbrook Official Plan.

**Glanbrook Zoning By-law No. 464**

The subject lands are zoned Existing Residential “ER” Zone in Glanbrook Zoning By-law No. 464, which requires lots to have a minimum lot frontage of 22.5 metres and a minimum lot area of 1,390 square metres.

The lands to be conveyed would not meet the minimum required lot area of 1,390.

The general intent and purpose of the By-law is to ensure lot areas are consistent with the surrounding neighbourhood and to ensure adequate building envelopes with appropriate setbacks can be provided. The surrounding neighbourhood contains a variety of mixed lot sizes comparable to the lot size proposed. Staff is of the opinion that a consistent streetscape will be maintained, and that an adequate building envelope can still be provided with the reduced lot area. As a result, staff supported the minor variance application for a reduced lot area.
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
Ecological function and the natural heritage system 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

:KJ
Attachs. (4)
COMMITTEE OF ADJUSTMENT

NOTICE OF DECISION

APPLICATION FOR CONSENT LAND SEVERANCE

APPLICATION NO. GL/B-08:159
SUBMISSION NO. B-150/08

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 92 Strathcona Place, formerly in the Township of Glenbrook, now in the City of Hamilton;
AND IN THE MATTER OF AN APPLICATION by the agent Ashenhurst Nouwens Ltd. (Peter Ashenhurst) on behalf of the owners Joseph and Helen Tabi, 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 measuring 22.5m x 53.38m (175' x 175') for single family residential purposes, and to retain a parcel of land measuring 37.3m x 122.3' x 53.38m (175' x 175') containing an existing 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, after performing a site inspection of the property and surrounding area, is of the opinion that the subject lot, being undersized in terms of lot area, 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 as the proposed lot is deficient in lot area.

3. The proposal does not comply with Section 51(24) of The Planning Act (ie. the dimensions of the proposed lot in comparison to the existing lots in the surrounding area).

DATED AT HAMILTON this 29th day of January, 2009.

M. Dubac, Chairman D. Serwatuk

C. Lewis L. Gaddys

D. Smith M. Switzer

NOTE: THE LAST DATE ON WHICH AN APPEAL TO THE ONTARIO MUNICIPAL BOARD MAY BE FILED IS February 28th, 2009.

THIS DECISION IS NOT FINAL AND BINDING UNLESS OTHERWISE NOTED.
APPLICATION NO. GLA-08.318
SUBMISSION NO. A-318/09

IN THE MATTER OF The Planning Act, R.S.O., 1990, c.P. 13, as amended and of the Zoning ByLaw No. 454, of the City of Hamilton (formerly Glanbrook), Section 12.

AND IN THE MATTER OF the Premises known as Municipal number 92 Strathmore Place, formerly in the Township of Glanbrook, now in the City of Hamilton and in an “ER” (Existing Residential) district;

AND IN THE MATTER OF AN APPLICATION by the agent Ashenhurst Nouwens Ltd. (Peter Ashenhurst) on behalf of the owners Joseph and Helen Talbi, for relief from the provisions of the Zoning By-Law No. 454, under Section 45 of The Planning Act, R.S.O. 1990, c. P. 13, so as to permit the creation of two (2) new parcels of land through land severance application GLA-08.155 notwithstanding that a minimum lot area of 1,200.0m² shall be provided for the parcel identified as “Part 1” instead of the minimum required 1,300.0m².

THE DECISION OF THE COMMITTEE IS:

That the variance, as set out in paragraph three above, is 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.

DATED AT HAMILTON this 29th day of January, 2009

M. Dužic (Chairman)  M. Switzer

L. Gaddysa  D. Smith

C. Lewis  D. Serwula

NOTE: THE LAST DATE ON WHICH AN APPEAL TO THE ONTARIO MUNICIPAL BOARD MAY BE FILED IS February 18th, 2009.

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