SUBJECT: Committee of Adjustment (Urban) Minor Variance Application FL/A-06:335 for the Property Known as 115 Victoria Street, Flamborough - Supported by the Planning and Economic Development Department (PED07106) (Ward 15)

RECOMMENDATION:

That Report PED07106 respecting Committee of Adjustment Severance Application FL/A-06:335 for the property known as 115 Victoria Street, Flamborough, as shown on Appendix “A” to Report PED07106, denied by the Committee of Adjustment but supported by the Planning and Economic Development Department, be received for information.

EXECUTIVE SUMMARY:

Minor Variance Application FL/A-06:335 sought relief from the provisions of Zoning By-Law No. 90-145-Z so as to permit the location of an existing garden shed and to permit the parking of a recreational vehicle, having a length of 9.76m instead of the maximum permitted length of 7.0m.
The variances were considered before the Committee of Adjustment (Urban) on January 24, 2007. Comments to the Committee of Adjustment from staff supported the variances for both the garden shed and the recreational vehicle, as they were consistent with the Provincial Policy Statement and in conformity with the Hamilton-Wentworth and Flamborough Official Plans, and the intent of the Flamborough Zoning By-law.

The Committee approved the variances for the garden shed, but denied the minor variance regarding the length of the recreational vehicle (Appendix “C”). The decision for the recreational vehicle 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

Minor Variance Application FL/A-06:335 was submitted to permit the location of an existing garden shed having a rear setback of 0.9m and a side yard setback of 0.5m, whereas a minimum of 1m is required; and the continued parking on-site of a 9.76m long recreational vehicle whereas the maximum length permitted by the By-law is 7.0m. The proposed locations of each are shown on Appendix “B”.

ANALYSIS/RATIONALE:

The subject lands are zoned Urban Residential (Single Detached) “R1” Zone within the Waterdown Urban area of Flamborough. Most properties within the immediate vicinity of the subject lands are zoned under the same Urban Residential (Single Detached) “R1” Zone, and benefit from similar lot sizes and a consistent pattern of development to that of the subject lands.
With respect to application FL/A-06:335 (Appendix “B”), staff noted that the requested variances are minor in impact, are appropriate and desirable for the use of the lands, and meet the intent and purpose of the Official Plan and Zoning By-law, satisfying the four tests of Section 45 of the Planning Act.

With particular reference to the relief sought to the maximum length of a recreational vehicle, staff considered that given the proposed location of the parking area in the rear yard and the scale of the variance requested, that such a modification would not result in any detrimental impact upon the character of the streetscape or the amenity of surrounding properties. Hence, the purpose and intent of the zoning By-law would be maintained. Therefore, staff recommended that the proposed variance be granted.

**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 application. 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 application has been reviewed with respect to the Provincial Policy Statement (PPS). Staff recognizes that the application is 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.

The proposal meets the purpose and intent of the Hamilton-Wentworth Official Plan.

Town of Flamborough Official Plan

The subject lands are designated “Residential” on Schedule A – Waterdown Urban Area – Land Use Plan – Town of Flamborough Official Plan. The application meets the purpose and intent of the Official Plan.

Town of Flamborough Zoning By-Law

The subject property is zoned Urban Residential (Single Detached) “R1” Zone, under the Town of Flamborough Zoning By-law. The regulations allow the parking of a recreational vehicle in a Residential Zone only if such vehicle has a maximum length of 7.0m. Staff is of the opinion that the minor variance, to permit a maximum length of 9.76m for the parking of a recreational vehicle, meets the purpose and intent 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

Attaches. (3)

AND IN THE MATTER OF the Premises known as Municipal number 115 Victoria Street, formerly in the Town of Flamborough, now in the City of Hamilton and in an "R1" (Urban Residential Single Detached Zone) district;

AND IN THE MATTER OF AN APPLICATION by the owners Claude and Margaret Leduc, for relief from the provisions of the Zoning By-Law No. 90-145-Z, as amended, under Section 45 of The Planning Act, R.S.O. 1990, c. P. 13, so as to permit the existing 3.76m x 4.42m shed to remain notwithstanding that a rear yard setback of 0.91m and a southerly side yard setback of 0.51m shall be provided instead of the minimum required 1.0m setback.

Also to permit a recreational vehicle to be parked on the subject property notwithstanding that the recreational vehicle shall have a length of 9.76m instead of the maximum permitted 7.6m in length.

THE DECISION OF THE COMMITTEE IS:

That the said variance for the shed IS 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.

That the said variance for the recreational vehicle 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 the Official Plan as referred to 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 24th day of January, 2007

M. Dudzic (Chairman)  V. Abraham

R. Nairn  D. Drury

C. Lewis  D. Serwatuk

NOTE: THE LAST DATE ON WHICH AN APPEAL TO THE ONTARIO MUNICIPAL BOARD MAY BE FILED IS February 13th, 2007.

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