SUBJECT: Appeal of the City of Hamilton Committee of Adjustment (Urban) Decision to Approve Severance Application GL/B-06:36 Anna Alves (Owner), 9620 Twenty Road West (Former Township of Glanbrook) (PED06181) (Ward 11)

RECOMMENDATION:

That Council agrees to the following actions, as detailed in Report PED06181, respecting the appeal of the City of Hamilton Committee of Adjustment (Urban) Consent/Land Severance Application GL/B-06:36 Anna Alves (Owner), 9620 Twenty Road West, former Township of Glanbrook, as shown on Appendix “A” to Report PED06181, approved by the Committee of Adjustment (Urban) but recommended for denial by the Planning and Economic Development Department:

(a) That Council of the City of Hamilton proceed with the appeal to the Ontario Municipal Board (OMB) against the decision of the Committee of Adjustment (Urban) to approve application GL/B:06-36.

(b) That Council direct appropriate Legal Services and Planning staff to attend the future Ontario Municipal Board (OMB) Hearing.

Lee Ann Coveyduck
General Manager
Planning and Economic Development Department
SUBJECT: Appeal of the City of Hamilton Committee of Adjustment (Urban) Decision to Approve Severance Application GL/B-06:36 Anna Alves (Owner), 9620 Twenty Road West (Former Township of Glanbrook) (PED06181) (Ward 11) - Page 2 of 5

EXECUTIVE SUMMARY:

Application GL/B-06:36 was considered by the City of Hamilton Committee of Adjustment (Urban) on April 12, 2006. Comments to the Committee of Adjustment from the Planning and Economic Development Department did not support the application as it was the opinion of staff that the proposal did not conform to the severance policies as set out in the Provincial Policy Statement, the Hamilton-Wentworth Official Plan and the Glanbrook Official Plan. The Committee of Adjustment approved the application, subject to conditions on April 12, 2006 (Appendix “C”). Planning and Economic Development Department staff has submitted an appeal letter and the required fee to the Secretary-Treasurer of the Committee of Adjustment to initiate the appeal process.

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 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.”

The situation with the subject Twenty Road West application is one in which the Committee of Adjustment “approved” an application that was “not” supported by staff. What is consistent between the above resolution and the subject application is that the Committee of Adjustment decided against the staff recommendation. As a result, the above application is being brought to the attention of Council for their consideration and direction.

Due to the short appeal time frame regulated through the Planning Act, the prescribed fee and appeal letter were submitted to begin the appeal process, subject to confirmation of this direction from Council.

Proposal

The subject property is located at 9620 Twenty Road (former Township of Glanbrook). The application proposes to convey a vacant parcel of land having a frontage of 21.195 metres (72.01’) and a depth of 94.0 metres (308.39’) for residential purposes, and to retain an identical parcel containing an existing single family dwelling for residential purposes, as shown on Appendix “B”.


The application was reviewed against all applicable planning policy documents which included the Provincial Policy Statement, the Hamilton-Wentworth Official Plan, and the Glanbrook Official Plan. Planning and Economic Development Department staff recommended denial of the application on the basis of non-conformity with these policy documents.

The Committee of Adjustment (Urban) approved the application on April 12, 2006, subject to conditions (Appendix "C").

**ANALYSIS/RATIONALE:**

Staff recommended denial of the application based on conflicts with the following Provincial legislation and land use planning policies:

1. Policy 1.6.4.2. of the Provincial Policy Statement (PPS) prefers both municipal water and sewage services for servicing in settlement areas. It also promotes intensification and redevelopment within settlement areas on existing municipal sewage services and municipal water services;

2. Policy 8.1.1 of the Hamilton-Wentworth Official Plan only permits consents in urban areas where full municipal services are available, or will be available within one year and will not interfere with planned development. The application is for the creation of one new lot within the “Urban Area” where only municipal water services are available, and municipal sewers are not planned within the next year; and,

3. Policy D.3 (a) of the Glanbrook Official Plan prohibits severances where adequate services including sanitary sewerage facilities and a potable water supply are not available.

**ALTERNATIVES FOR CONSIDERATION:**

**Option 1**

Council could proceed with the appeal and direct appropriate Legal Services and Planning staff to attend the Ontario Municipal Board Hearing in opposition to the approved severance application, as recommended in this report.

**Option 2**

Council may direct staff to withdraw the appeal letter, which was filed by staff against the decision of the Committee of Adjustment (Urban) to the Ontario Municipal Board (OMB).

The City of Hamilton was the only party which appealed the application. Should the appeal be withdrawn, the application will be considered approved, subject to conditions, with no other options for appeal.
FINANCIAL/STAFFING/LEGAL IMPLICATIONS:

Financial: Planning and Economic Development Department staff has submitted the required fee of $125.00 to the Minister of Finance to begin the appeal process. Other than this one-time fee, the costs for the Hearing are covered by the respective Departmental Work Programs/Budgets. Therefore, no additional funds would be required.

Staffing: One representative from each of Development Planning and Legal Services would be required for preparation and attendance at an Ontario Municipal Board Hearing.

Legal: No legal implications are expected.

POLICIES AFFECTING PROPOSAL:

Provincial Policy Statement (PPS)

Policy 1.6.4.2. of the PPS prefers both municipal water and sewage services for servicing in settlement areas. It also promotes intensification and redevelopment within settlement areas on existing municipal sewage services and municipal water services. This application is not supportive of this policy as only municipal water services are available to the subject lands.

Hamilton-Wentworth Official Plan

The property is designated in the Hamilton-Wentworth Official Plan as “Urban Area”. Policy 8.1.1 states that local Official Plans will only permit consents in urban areas where full municipal services are available, or will be available within one year and will not interfere with planned development. The Committee approved the application without a condition for hook-up to municipal sanitary services.

As well, the Public Works Department has advised that the sanitary sewage pumping station at Twenty Road is operating at near capacity levels. As a result, no new sanitary sewer connections will be permitted for proposed development within this area until such time as the necessary upgrades to the pumping station have been completed and are fully operational. As the nature of the application is for the creation of one new lot within the Urban Area where only municipal water services are available, and municipal sewers are not expected to be available along the frontage of the subject property within the next year, this proposal does not conform to the Hamilton-Wentworth Official Plan.
Glanbrook Official Plan

The subject lands are designated “Residential” on Schedule “A” – Land Use Plan in the Glanbrook Official Plan. The proposed severance does not conform to the Plan as Policy D.3 (a) states that severances “shall be prohibited where adequate services including sanitary sewerage facilities and a potable water supply are not available.”

Glanbrook Zoning By-law No. 464

The subject lands are zoned Existing Residential “ER” Zone in Glanbrook Zoning By-law No. 464. The zone permits single family dwellings on lots having a minimum frontage of 22.5m. In this regard, Minor Variance Application GL/A-06:71 to permit the proposed conveyed and retained lands to have reduced lot frontages of 21.195m was approved by the Committee of Adjustment on April 12, 2006. This application was not appealed.

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
Municipal services are not delivered in an efficient or coordinated manner.

Environmental Well-Being is enhanced. ☐Yes ☒ No
The application creates the need for an additional septic system within the urban area, which is not desirable.

Economic Well-Being is enhanced. ☐Yes ☒ No
The application could impact the flexibility to develop the adjacent residentially designated lands.

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

:JG
Attends. (3)
COMMITTEE OF ADJUSTMENT
MOTION FORM (Consent)

DATE: April 19/96  APPLICATION NO: GL/B-06-36
MOVED BY:  SECONDED BY:  

THE DECISION OF THE COMMITTEE IS:

That the application be APPROVED for the following reason:

1. The Committee is of the opinion that a plan of subdivision of the lands is not necessary, in this case, for the proper and orderly development of the municipality.

Having regard to the matters under subsection 51.(24) of The Planning Act, R.S.O., 1990, c.P. 13, the said application shall be subject to the following conditions:

1. That the owner satisfy ALL conditions financial and otherwise of the City of Hamilton, Planning and Development Department, Development & Real Estate Division, Development Planning (East) Section.

2. That the owner satisfy ALL conditions financial and otherwise of the City of Hamilton, Planning and Development Department, Development & Real Estate Division, Development Engineering (West) Section.

3. The owner shall submit a deposited Ontario Land Surveyor’s Reference Plan to the Committee of Adjustment Office, unless exempted by the Land Registrar.

4. The owner shall receive final approval of any variances from the requirements of the Zoning By-Law as determined necessary by the Planning and Economic Development Department (Building & Licensing Division).

5. The owner shall pay the required amount of Local Improvement/Municipal Act Charges to the Budgets & Finance Section of Corporate Services.

6. The owner shall pay outstanding realty taxes and/or all other charges owing to the City Treasurer.

THE FOREGOING CONDITIONS MUST BE MET WITHIN ONE(1) YEAR OF THE DATE OF THE NOTICE OF THIS DECISION OR THE APPLICATION SHALL BE DEEMED TO BE REFUSED (PLANNING ACT, SECTION 53(41)).

[Signatures]