

NOTICE OF PUBLIC HEARING

Minor Variance

You are receiving this notice because you are either:

- Assessed owner of a property located within 60 metres of the subject property
 - Applicant/agent on file, or
 - Person likely to be interested in this application
-

APPLICATION NO.: FL/A-20:164

APPLICANTS: Owner: Michelle Sala
Agent: Bousfields Inc. c/o David Falletta

SUBJECT PROPERTY: Municipal address **298 Dundas St. E., Flamborough**

ZONING BY-LAW: Zoning By-law 05-200, as Amended

ZONING: C5a (Mixed Use Medium Density) district

PROPOSAL: To establish the use of a Medical Clinic in the existing building notwithstanding that:

1. Two (2) parking spaces shall be provided whereas the by-law requires parking to be provided at a rate of at least one (1) space for each 16.0m² of gross floor area for a Medical Clinic use.
2. No barrier free parking spaces shall be provided instead of the one (1) required barrier free parking space.
3. Tandem parking spaces shall be provided whereas the by-law requires each parking spaces to have adequate and unobstructed access from the street.

NOTES:

- i. The total gross floor area of the proposed Medical Clinic has not been provided. As such, the minimum number of parking spaces that would be required under the current provision cannot be determined.
- ii. The proposed parking spaces have not been illustrated on the submitted site plan. As such, variances have been written as requested by the applicant.
- iii. Please be advised that a variance to permit a gravel parking area instead of a hard-surface such as asphalt or concrete was requested. However, pursuant to Subsection 5.2(e)(i)&(ii) and Section 2 (Definition – Parking Lot); a parking area containing less than four (4) parking spaces is permitted to be comprised of gravel. Therefore, this variance has not been included.
- iv. Please be advised that no parking spaces are permitted within 3.0m of a street line pursuant to Subsection 5.1(a)(v). Insufficient information has been provided to confirm the exact location of each parking space within the parking area. As such, further variances may be required. Furthermore, each parking space is required to be at least 3.0m wide and 5.8m in length.

DATE: Thursday, September 17th, 2020
TIME: 1:20 p.m.

PLACE: Via video link or call in (see attached sheet for details)
To be streamed at www.hamilton.ca/committeeofadjustment
for viewing purposes only

PUBLIC INPUT

Written: If you would like to submit written comments to the Committee of Adjustment you may do so via email or hardcopy. Please see attached page for complete instructions, including deadlines for submitting to be seen by the Committee.

Orally: If you would like to speak to this item at the hearing you may do so via video link or by calling in. Please see attached page for complete instructions, including deadlines for registering to participate.

MORE INFORMATION

For more information on this matter, including access to drawings illustrating this request:

- Visit www.hamilton.ca/committeeofadjustment
- Call 905-546-CITY (2489) or 905-546-2424 extension 4221, 4130, or 4144
- Email Committee of Adjustment staff at cofa@hamilton.ca

DATED: September 1st, 2020.

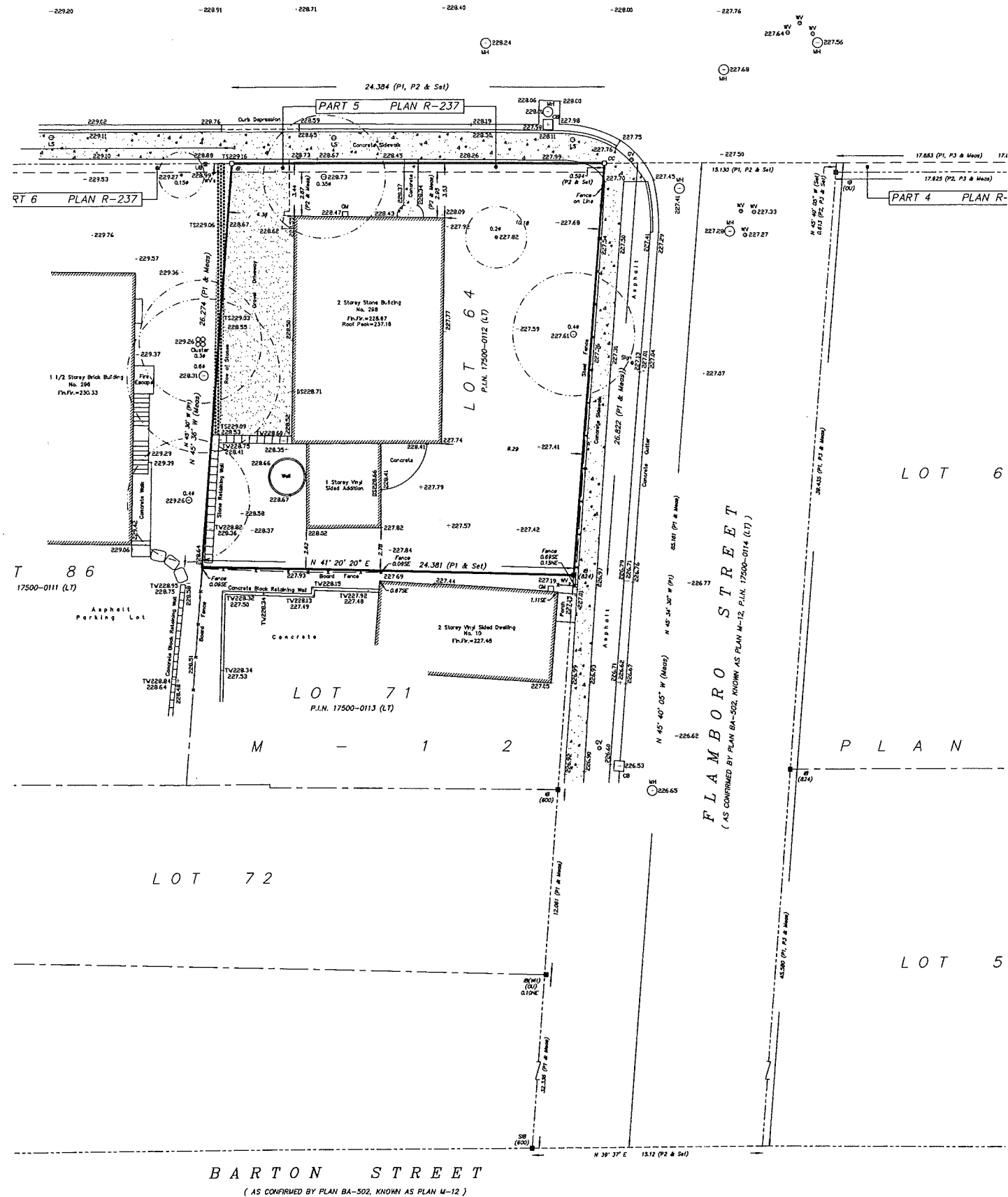
Jamila Sheffield,
Secretary-Treasurer
Committee of Adjustment

Information respecting this application is being collected under the authority of the Planning Act, R.S.O., 1990, c. P. 13. All comments and opinions submitted to the City of Hamilton on this matter, including the name, address, and contact information of persons submitting comments and/or opinions, will become part of the public record and will be made available to the Applicant and the general public.

DUNDAS STREET EAST

(FORMERLY HIGHWAY No. 5 EAST, NAME CHANGED BY BY-LAW 19-145, REGISTERED AS INST. No. HE1368572)
(AS CONFIRMED BY PLAN BA-502, KNOWN AS PLAN M-12, P.I.N. 17507-0261 (LT))

N 40° 04' 30" E (REFERENCE BEARING)





Hamilton

Planning and Economic Development Department
Planning Division

Committee of Adjustment

City Hall
5th floor 71 Main Street West
Hamilton, Ontario L8P 4Y5

Phone (905) 546-2424 ext.4221
Fax (905) 546-4202

**PLEASE FILL OUT THE FOLLOWING PAGES AND
RETURN TO THE CITY OF HAMILTON PLANNING
DEPARTMENT.**

20-179350

FOR OFFICE USE ONLY.	
APPLICATION NO. <u>FL/A-20-164</u>	DATE APPLICATION RECEIVED <u>AUG. 18/20</u>
PAID _____	DATE APPLICATION DEEMED COMPLETE _____
SECRETARY'S SIGNATURE _____	

**CITY OF HAMILTON
COMMITTEE OF ADJUSTMENT
HAMILTON, ONTARIO**

The Planning Act

Application for Minor Variance or for Permission

The undersigned hereby applies to the Committee of Adjustment for the City of Hamilton under Section 45 of the *Planning Act*, R.S.O. 1990, Chapter P.13 for relief, as described in this application, from the Zoning By-law.

1. Name of Owner Michelle Sala

2.

3. Name of Agent Bousfields Inc. c/o David Falletta

4.

Note: Unless otherwise requested all communications will be sent to the agent, if any.

5. Names and addresses of any mortgagees, holders of charges or other encumbrances:

Michelle Sala, 16 Medwin Drive Dundas

Rick Golarz, 16 Medwin Drive, Dundas Postal Code L9H 7N4

Postal Code _____

6. Nature and extent of relief applied for:
Please refer to the submitted cover letter.

7. Why it is not possible to comply with the provisions of the By-law?
Please refer to the submitted cover letter.

8. Legal description of subject lands (registered plan number and lot number or other legal description and where applicable, street and street number):

_____ 298 Dundas St. E. _____

9. PREVIOUS USE OF PROPERTY
Residential ☒ Industrial _____ Commercial _____
Agricultural _____ Vacant _____
Other _____
- 9.1 If Industrial or Commercial, specify use

- 9.2 Has the grading of the subject land been changed by adding earth or other material, i.e. has filling occurred?
Yes _____ No ☒ Unknown _____
- 9.3 Has a gas station been located on the subject land or adjacent lands at any time?
Yes _____ No ☒ Unknown _____
- 9.4 Has there been petroleum or other fuel stored on the subject land or adjacent lands?
Yes _____ No ☒ Unknown _____
- 9.5 Are there or have there ever been underground storage tanks or buried waste on the subject land or adjacent lands?
Yes _____ No ☒ Unknown _____
- 9.6 Have the lands or adjacent lands ever been used as an agricultural operation where cyanide products may have been used as pesticides and/or sewage sludge was applied to the lands?
Yes _____ No _____ Unknown ☒
- 9.7 Have the lands or adjacent lands ever been used as a weapon firing range?
Yes _____ No _____ Unknown ☒
- 9.8 Is the nearest boundary line of the application within 500 metres (1,640 feet) of the fill area of an operational/non-operational landfill or dump?
Yes _____ No ☒ Unknown _____

9.9 If there are existing or previously existing buildings, are there any building materials remaining on site which are potentially hazardous to public health (eg. asbestos, PCB's)?

Yes X No Unknown

9.10 Is there any reason to believe the subject land may have been contaminated by former uses on the site or adjacent sites?

Yes No X Unknown

9.11 What information did you use to determine the answers to 9.1 to 9.10 above?

Historical knowledge of the site, discussion with owner and ESA

9.12 If previous use of property is industrial or commercial or if YES to any of 9.2 to 9.10, a previous use inventory showing all former uses of the subject land, or if appropriate, the land adjacent to the subject land, is needed.

Is the previous use inventory attached? Yes X No
ESA attached

ACKNOWLEDGEMENT CLAUSE

I acknowledge that the City of Hamilton is not responsible for the identification and remediation of contamination on the property which is the subject of this Application – by reason of its approval to this Application.

Date

July 26/20

Signature Property Owner

Print Name of Owner

Michelle Sale

10. Dimensions of lands affected:

Frontage Approximately 24 metres

Depth Approximately 25 metres

Area 645 square metres

Width of street +/- 20 metres

11. Particulars of all buildings and structures on or proposed for the subject lands:
(Specify ground floor area, gross floor area, number of stories, width, length, height, etc.)

Existing: 2- storey heritage building

Proposed: 2- storey heritage building converted into psychological practice

12. Location of all buildings and structures on or proposed for the subject lands:
(Specify distance from side, rear and front lot lines)

Existing: Please see attached site plan

Proposed: please see attached site plan

13. Date of acquisition of subject lands:

September 27 2019

14. Date of construction of all buildings and structures on subject lands:

15. Existing uses of the subject property: Unoccupied

16. Existing uses of abutting properties: Commercial and Residential

17. Length of time the existing uses of the subject property have continued:

Non-occupied

18. Municipal services available: (check the appropriate space or spaces)

Water X

Connected

Sanitary Sewer X

Connected

Storm Sewers X

19. Present Official Plan/Secondary Plan provisions applying to the land:

Mixed-Use Medium Density

20. Present Restricted Area By-law (Zoning By-law) provisions applying to the land:

Mixed-Use Medium Density - Pedestrian Focused C5a

21. Has the owner previously applied for relief in respect of the subject property?

Yes

No

If the answer is yes, describe briefly.

22. Is the subject property the subject of a current application for consent under Section 53 of the *Planning Act*?

Yes

No

23. The applicant shall attach to each copy of this application a plan showing the dimensions of the subject lands and of all abutting lands and showing the location, size and type of all buildings and structures on the subject and abutting lands, and where required by the Committee of Adjustment such plan shall be signed by an Ontario Land Surveyor.

NOTE: It is required that two copies of this application be filed with the secretary-treasurer of the Committee of Adjustment together with the maps

August 17, 2020

Morgan Evans
Committee of Adjustment
City of Hamilton – Planning and Economic Development Department
71 Main Street West, 5th Floor
Hamilton, Ontario L8P 4Y5

Dear Ms. Evans:

Re: *Minor Variance Application*
298 Dundas Street East, Waterdown

Overview

On behalf of our client, Dr. Michelle Sala, the owner of the property municipally known as 298 Dundas Street East (the “subjects site”), we are pleased to submit this Minor Variance application in order to facilitate the conversion of the existing Heritage building into a psychological practitioners office. In support, the following will provide an overview of the background, description of site and surrounding, the proposed minor variances, and our planning opinion.

Background

Dr. Sala purchased the property with the intention of moving her practice into the existing building, since the zoning of the subject site permits the use, which is defined as a “medical office”. Dr. Sala’s practice involves the treatment of children and adolescents, which she typically treats in the afternoons, evenings, and weekends outside of normal school hours. Only one patient at a time can be treated and appointments are staggered to allow sufficient time for patients to leave before the next patient arrives.

Dr. Sala has invested significantly to renovate the existing building, which is a heritage property that is on the City’s list of registered (non-designated) list of buildings with historical and/or architectural interest. As part of the building permit process, a parking shortfall was identified. Given the lack of parking on-site, the intention is to allow for a single practitioner (psychologist) to operate within the entire building and limit the amount of on-site parking required.

Site and Surroundings

The subject site is comprised of a generally square shaped parcel of land with an area of approximately 645 square metres (0.0645 hectares) located at the southwest corner of Dundas Street East and Flamboro Street. The subject site has approximately 24 metres of frontage along Dundas Street East and a depth of approximately 25 metres. The subject site is currently occupied by a 2- storey stone building that is identified as being Registered Non-Designated within the City of Hamilton’s list of Heritage properties. There is an existing gravel driveway along the west boundary of the site, which connects to Dundas Street East and is wide and deep enough to accommodate two (2) vehicular parking spaces a tandem form (**see attached site plan**).

The subject site is located along a Major Arterial road (Dundas Street) as identified on Schedule C – Functional Road Classifications in the Urban Hamilton Official Plan. In terms of surrounding uses, there are a variety of uses along Dundas Street East, including local commercial establishments and low, medium, and high-density residential dwellings such as a 10- storey residential building

located at 1 Hamilton Street. The subject site is located along a traditional commercial "main street" that accommodates a variety of service commercial, retail, and restaurant uses with on-street parking and local bus transit. To the immediate north, east, and west are 1- and 2- storey commercial establishments while to the south of the subject site is an existing 2- storey residential dwelling.

Proposal & Requested Minor Variances

The proposal seeks to adaptively reuse an existing former institutional (church) building, which was built in 1859, in order to accommodate a psychiatrist's office for one practitioner. In this regard, the subject site falls within Hamilton Zoning By-law 05-200 where are medical practitioners fall within the definition of a "medical clinic" regardless of the type, size, and number of practitioners.

The following five (5) minor variances are required to implement the proposal:

1. **Section 5.6(c)iv of Zoning By-law 05-200, as amended**
That 2 tandem parking spaces are permitted for a medical clinic accommodating a single psychologist only, whereas the By-law requires 1 parking space for each 16.0 square metres of gross floor area.
2. **Section 5.2(c) of Zoning By-law 05-200, as amended**
That parking spaces may be provided in tandem, whereas the By-law requires that parking spaces be arranged without the necessity of moving any other motor vehicle.
3. **Section 5.2(c) of Zoning By-law 05-200, as amended**
That a parking lot shall provide ingress and egress of vehicles to and from a street in a backward motion, whereas any parking lot shall provide for ingress and egress of vehicles to and from a street in a forward motion only.
4. **Section 5.2(e)(ii) of Zoning By-law 05-200, as amended**
That a parking lot be designed with gravel, whereas a parking lot shall be designed and maintained with a stable surface such as asphalt, concrete, or other hard surfaces.
5. **Section 5.5(a) of Zoning By-law 05-200, as amended**
That 0 barrier free parking spaces be provided, whereas the By-law requires a minimum of 1 barrier free parking spaces when 1-49 parking spaces are required.

Planning Analysis

Section 45(1) of the *Planning Act* authorizes the Committee of Adjustment the authority to grant a minor variance from the provisions of the by-law, in respect of the land, building or structure, or the use thereof, if, in its opinion, it meets the following four tests:

1. Maintaining the general intent and purpose of the Official Plan

The subject site is designated *Mixed Use – Medium Density* as shown on Schedule E-1 – Urban Land Use Designations within the Urban Hamilton Official Plan (the "UHOP"). Policy E.4.6.5 of the UHOP provides permitted uses on lands designated *Mixed Use – Medium Density* and include commercial uses including medical clinics and offices. As the proposal seeks to utilize the subject site with a use that is permitted by the Official Plan, it is our opinion that the proposal maintains the general intent and purpose of the Official Plan. Furthermore, the

minor variances will facilitate the adaptive reuse of an existing heritage building, which achieves numerous provincial and local policy objectives.

2. Maintaining the general intent and purpose of the Zoning By-law

The general intent and purpose of the Zoning By-law is to ensure that sufficient parking is being provided for the use on the subject site. As noted above, the medical clinic will be solely for one medical practitioner who would be able to regulate how many patients they will be attending to at the clinic at a given time. Also, the clients are limited to children and adolescents that attend outside of normal school hours when many of the surrounding commercial uses (such as office and service uses) have lower parking demands on the on-street parking. In our opinion, a sole psychiatrist practitioner has a much lower parking demand than a medical clinic with numerous practitioners and staff. The zoning by-law does not differentiate between these uses and instead applies a common parking ratio based on the gross floor area of the clinic. In our opinion, by limiting the use to one psychiatrist practitioner, it would ensure that sufficient on-site parking is available to service patients and sufficient overflow parking can be accommodated via on-street parking on Dundas Street East. Accordingly, it is our opinion that the general intent and purpose of the Zoning By-law is being maintained.

In terms of the proposed tandem parking, the general intent and purpose of the Zoning By-law is to ensure that no vehicle is obstructed from movement and that anyone can enter or exit the parking space and property at all times. As mentioned above, the medical clinic will have only one medical practitioner who will be able to regulate the number of patients they are seeing at any given time. It is our opinion that if the practitioner uses one parking space for their use and provides the tandem parking space for patients, no issues will arise as no patient parking space will be obstructed.

Regarding the parking surface, the general intent and purpose of the Zoning By-law is to ensure a clean and safe parking surface. As the minor variance is required to legalize an existing situation and operate similarly, it is our opinion that the general intent and purpose of the zoning by-law is maintained.

Based on the foregoing, it is our opinion that the proposed variances maintain the general intent and purpose of the Zoning By-law.

3. Desirable and appropriate for the development of the land

It is our opinion that the variances being requested are desirable and appropriate for the development of the land as it will allow for the subject site to accommodate a use that it is planned for, since it is permitted by the Official Plan, while preserving adaptively reusing a registered (Non-Designated) heritage building, which achieves numerous provincial and local planning policy objectives. As the proposed minor variances will restrict the use to medical clinic accommodating a single psychologist only, it is our opinion that the proposal will not create any parking issues for the surrounding neighbourhood and can be supported. Regarding the minor variances for maneuvering space and gravel surface, the existing gravel driveway, which currently accommodates two tandem parking spaces, will function in the same way and the variances are to facilitate an existing situation. In our opinion, the proposal is desirable and appropriate.

4. Minor in nature

In our opinion, the variances are minor from both a quantitative and qualitative perspective. Minor is not simply a numerical calculation but is based on an analysis of the sense of fit of the proposal having regard to its context and any impacts that may arise.

The variances will facilitate the adaptive reuse of a registered (Non-Designated) heritage building that will preserve a cultural heritage resource. The reduction in parking is minor in impact, since the use is restricted to medical clinic accommodating a single psychologist only where the frequency of patients is limited and dictated by the psychologist and considered self-regulating. Also, the subject site includes several site-specific characteristics, such as on-street parking along Dundas Street East, intended to service visitors to the traditional "main street" commercial uses, which will accommodate any potential parking overflow. Accordingly, it is our opinion that the proposed minor variances are minor and should be supported.

Summary Opinion

Based on the foregoing, it is our opinion that the requested variances satisfy the four-part test set out in the Planning Act and we respectfully respect that the Committee of Adjustment approve the application.

In support of the application, please find the following enclosed:

- Application form
- Cheque
- Site plan

We trust that the foregoing is satisfactory. However, if you have any questions or require additional information, please do not hesitate to contact the undersigned or Joe Buordolone of our office at 905-549-3005.

Yours very truly,
Bousfields Inc.

A handwritten signature in black ink, appearing to be 'David Falletta', written over the company name.

David Falletta, MCIP, RPP

jb/DF:jobs

Attachments (1)

Cc: J. Christy, City of Hamilton (via e-mail)