

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.: HM/A-20:34

APPLICANTS: Agent Urban Solutions
Owner Rahul Shukla

SUBJECT PROPERTY: Municipal address **1662 Upper James St., Hamilton**

ZONING BY-LAW: Zoning By-law 05-200, as Amended 17-240

ZONING: "C7" (Arterial Commercial) district

PROPOSAL: To permit the establishment of the existing legally established non-conforming medical clinic on the portion of the second-floor north side (existing 97 m² general office) of the existing building and provide six (6) new parking spaces at the rear and front of the existing building for the total required 19 parking spaces notwithstanding that:

1. The use of a medical clinic is not a permitted use in the zone; and
2. A minimum interior side yard of 0.7 m shall be maintained on the southerly side lot line instead of the minimum required 1.5 m; and
3. A maximum building height of 18.0 m shall be maintained whereas the By-Law states that a maximum permitted height of 14.0 m is required; and
4. 0.0 m setback shall be provided for the parking spaces abutting Upper James Street whereas the By-Law states that parking shall not be located within 3.0m of a street line; and
5. No planting strip shall be provided on site abutting a street (Upper James St.) whereas the By-Law states that a 3.0 m wide planting strip shall be provided and permanently maintained between the street line and the said parking spaces or aisle; and
6. A minimum manoeuvring space aisle width of 3.6 m shall be provided for a two-way access driveway whereas the By-Law states that a minimum of 6.0 m aisle width is required to be provided for a 90 ° parking having two-way access driveway; and
7. No barrier free parking space shall be provided instead of the minimum required 1 barrier free parking space; and
8. A minimum of 19 parking spaces shall be provided on site instead of the minimum required 32 parking spaces; and

9. Tandem parking shall be permitted to be provided on site whereas all the required parking shall be provided with an adequate means of ingress and egress to and from the street or laneway without the necessity of moving another motor vehicle, and shall be arranged so as not to interfere with normal public use of the street or laneway; and

10. To permit tandem parking for the proposed parking at rear instead of the minimum required 6.0 m manoeuvring space aisle width for a parking space designed for a 90°-parking angle degree; and

11. A minimum of 2.7 m in width by 5.5 m in length shall be maintained for the existing parking at the front instead of the minimum required parking space size of 2.8 m in width by 5.8 m in length; and

12. No barrier free parking space shall be provided on site instead of the minimum one (1) space designated barrier free.

Note:

1. Parking for the location of the existing building is not required as it is considered LNC; however, variances have been written as requested by the applicant for side and height.

2. The applicant has requested a variance for reduced number of parking spaces to a minimum of 19 spaces to be provided instead of the total required of 32 spaces (based on the total GFA of 525.50 m²).

3. Please note that a total of 13 parking spaces are existing on site and the new required 6 spaces are based on the 97 m² expansion which comes to a total of 19 parking spaces required to be provided on site.

4. Site Plan Sketch shows a total of 19 parking spaces (after the street widening of ±3.10 m inwards from the original property line has been taken).

5. Therefore, the requested variance for reduced number of parking spaces on site and reduced parking space size are not required; however, variances have been written as requested by the applicant. Please note that the parking at the front is existing and therefore, LNC.

6. This Minor Variance Application is necessary to facilitate Building Permit Application # 19-147453

This application will be heard by the Committee as shown below:

DATE:	Thursday, June 17th, 2021
TIME:	2:00 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 3935
- Email Committee of Adjustment staff at cofa@hamilton.ca

DATED: June 1st, 2021.

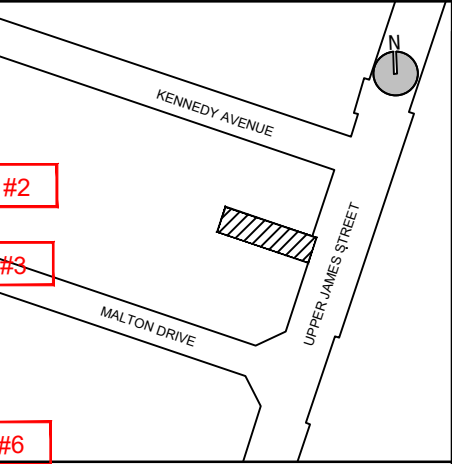
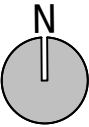
Jamila Sheffield,
Secretary-Treasurer
Committee of Adjustment

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.

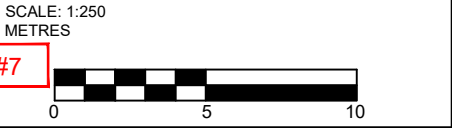
REQUIRED VARIANCES:

- VARIANCE NO. 1:** A MINIMUM INTERIOR SIDE YARD OF 0.75 METRES WHEREAS 1.5 METRES IS REQUIRED.
- VARIANCE NO. 2:** A MAXIMUM BUILDING HEIGHT OF 18.0 METRES WHEREAS 14.0 METRES IS REQUIRED.
- VARIANCE NO. 3:** NO PLANTING STRIP TO BE PROVIDED WHEREAS A MINIMUM 1.5 METRE PLANTING STRIP IS REQUIRED.
- VARIANCE NO. 4:** A MINIMUM PARKING SPACE DIMENSIONS OF 2.7 METRES BY 5.5 METRES WHEREAS A MINIMUM OF 2.8 METRES BY 5.8 METRES IS REQUIRED.
- VARIANCE NO. 5:** A MINIMUM DRIVE AISLE WIDTH FOR ONE AND TWO WAY OPERATIONS OF 3.6 METRES WHEREAS A MINIMUM 6.0 METRE DRIVE AISLE IS REQUIRED.
- VARIANCE NO. 6:** NO BARRIER FREE PARKING SPACES TO BE PROVIDED WHEREAS A MINIMUM OF 1 BARRIER FREE PARKING SPACE IS REQUIRED.
- VARIANCE NO. 7:** TO PERMIT 19 PARKING SPACES WHEREAS 32 SPACES ARE REQUIRED.
- VARIANCE NO. 8:** TANDEM PARKING SHALL BE PERMITTED TO BE PROVIDED ON SITE WHEREAS ALL REQUIRED PARKING SHALL BE PROVIDED WITH ADEQUATE MEANS OF INGRESS TO AND FROM THE STREET OR LANEWAY WITHOUT THE NECESSITY OF MOVING ANOTHER MOTOR VEHICLE.
- VARIANCE NO. 9:** TO PERMIT TANDEM PARKING WHEREAS ALL REQUIRED PARKING SHALL HAVE A MINIMUM AISLE WIDTH OF 6.0 METRES FOR A PARKING SPACE DESIGNED AT A 90 DEGREE ANGLE.
- VARIANCE NO. 10:** TO PERMIT THE EXPANSION OF A LEGAL NON-CONFORMING USE.

Development Statistics		
Zone: (C7) Arterial Commercial		
Item	Required	Provided
Min. Setback to Street	18.0 m	+/- 24.00 m
Min. Rear Yard	7.0 m to a Residential Zone	+/-8.71 m
Min. Interior Side Yard	1.5 m	+/-0.86 m
Max. Building Height	14.0 m	17.0 m
Planting Strip	1.5 m abutting Residential Zone	0.0 m
Parking		
Min. Parking Space Size	2.8 m x 5.8 m	2.7 m x 5.5 m
Min. Drive Aisle Width	6.0 m	3.66 m
Min. Barrier Free	1 space	0 spaces
TYP spaces	1 space / 16 m ² =32 spaces	19 spaces (Inc. 4 Tandem)



KEY MAP - N.T.S.



- LEGEND:
- SUBJECT LANDS
 - - - PROPERTY BOUNDARIES
 - X- EX. FENCE

NOT FOR CONSTRUCTION
ISSUED FOR REVIEW & COMMENTS ONLY

NOTES:
ALL DIMENSIONS SHOWN ON THIS PLAN ARE IN METRES AND CAN BE CONVERTED TO FEET BY DIVIDING BY 0.3048.

DESIGN BY: L. DRENNAN	CHECKED BY: M. JOHNSTON
DRAWN BY: L. DRENNAN	DATE: APRIL 1, 2021



3 STUDEBAKER PLACE, UNIT 1
HAMILTON, ON L8L 0C8
905-546-1087 - urbansolutions.info

PROJECT:
1662 UPPER JAMES STREET
CITY OF HAMILTON

CLIENT:
DR. RAHUL SHUKLA

TITLE:
MINOR VARIANCE SKETCH

U/S FILE NUMBER: 400-21	SHEET NUMBER: 1
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MINOR VARIANCE #8 & 9

MINOR VARIANCE #5

MINOR VARIANCE #4

MINOR VARIANCE #1

MINOR VARIANCE #2

MINOR VARIANCE #3

MINOR VARIANCE #6

MINOR VARIANCE #7

UPPER JAMES STREET

April 7, 2021

400-21

Via Email

Jamila Sheffield
Secretary Treasurer, Committee of Adjustment

City of Hamilton
71 Main Street West, 5th Floor
Hamilton, ON L8P 4Y5

Dear Ms. Sheffield:

**RE: 1662 Upper James Street, City of Hamilton
Minor Variance Application – HM/A-20:34**

UrbanSolutions Planning & Land Development Consultants Inc. (UrbanSolutions) is the authorized planning consultants acting on behalf of DRS Skincare c/o Dr. Rahul Shukla, the registered owner of the lands municipally known as 1662 Upper James Street, in the City of Hamilton (subject lands).

The subject lands are designated Arterial Commercial in the Urban Hamilton Official Plan (UHOP) and are located in the Arterial Commercial (C7) Zone in the City of Hamilton Zoning By-law No. 05-200. The subject lands currently operate as a legally established medical clinic under the current Zoning By-law. A Minor Variance Application (HM/A-20:34) was previously heard on July 16, 2020 and was tabled. We are now requesting that the application be placed on the next available agenda.

The initial Minor Variance Application (HM/A-20:34) that was considered on July 16, 2020 Committee of Adjustment and proposed to permit the establishment of the existing legally established non-conforming medical clinic on the portion of the second-floor north side (existing 97m² general office) of the existing building and provided (5) new parking spaces at the rear of the existing building for the total required 19 parking spaces notwithstanding that:

1. The use of a medical clinic is not a permitted use in the zone;
2. A minimum 2.7 m in width by 5.4 m in length has been provided for the proposed five (5) new parking spaces at the rear of the existing building instead of the minimum required parking space size of 2.6 m in width by 5.5 m in length (existing regulation);
3. A minimum of 2.7 m in width by 5.4 m in length has been provided for the proposed five (5) new parking spaces at the rear of the existing building instead of the minimum required parking space size of 3.0 m width by 5.8 m in length (new regulation);
4. A minimum 3.6 m manoeuvring shall be provided for a 60° parking angle degree instead of the minimum required 5.5 m for a two-way aisle width; and,
5. No barrier free parking space shall be provided on site instead of the minimum one (1) space designated barrier free for the require 1-49 parking spaces.

Based on the revised Minor Variance Sketch the following Minor Variances now being requested:

1. A minimum interior side yard of 0.75 metres whereas 1.5 metres is required;
2. A maximum building height of 18.0 metres whereas 14.0 metres is required;
3. No planting strip to be provided whereas a minimum 1.5 metres planting strip is required;
4. A minimum parking space dimension of 2.7 metres by 5.5 metres whereas a minimum of 2.8 metres by 5.8 metres is required;
5. A minimum drive aisle width for one and two way operation of 3.6 metres whereas a minimum 6.0 metre drive aisle is required;
6. No barrier free parking spaces to be provided whereas a minimum of 1 barrier free parking space is required;
7. To permit 19 parking spaces whereas 32 spaces are required;
8. Tandem parking shall be permitted to be provided on site whereas all required parking shall be provided with adequate means of ingress to and from the street or laneway without necessity of moving another motor vehicle;
9. To permit tandem parking whereas all required parking shall have a minimum aisle width of 6.0 metres for a parking space designed at a 90 degree angle; and,
10. To permit the expansion of a legal non-conforming use.

Rationale

As Minor Variance 1, 2, 3, 4, 5, 6 recognize the existing site conditions, it is our opinion that Section 45 (1) of the *Planning Act* is satisfied. In regard to the tandem parking and drive aisle to the rear, the spaces will be designated for staff only so maneuvering will not be an issue as it will not be accessible to the general public.

The purpose of the Minor Variance application is to request relief from the Zoning By-law, specifically the parking requirements established in *Section 5: Parking of the City of Hamilton Zoning By-law 05-200*. These variances are required to allow for the proposed expansion of the legal non-conforming medical clinic into the second storey of the building which was previously used as general office. As you are aware, an application to expand the legal non-conforming use and applicable building permit can not be granted until the applicant obtains a variance for a reduction in parking. A previous minor variance application dated October 13, 2011 was submitted and approved (Application No. HM/A-11:215) which approved the following variances:

- A total of (13) parking spaces shall be provided for the physiotherapy clinic (of which two (2) parking spaces located at the back will be designated for the staff) instead of the minimum required twenty one (21) parking spaces; and,
- A minimum manoeuvring aisle width of 4.2m shall be provided for the 45° angle parking spaces located at the front instead of the minimum required manoeuvring aisle width of 4.5m.

Per *Section 5.6 Parking Schedules, c) Parking Schedule for all Zones, except the Downtown Zones* a medical clinic needs to provide 1 space for each 16.0 square metres of gross floor area. This parking ratio requires the clinic to provide 32 parking spaces as shown on the Minor Variance Sketch. The previous application

only requested a reduction from 30 spaces as it did not include the total gross floor area of the subject lands.

The clinic performs medical dermatology, cosmetic dermatology, minor plastic surgery, rheumatology and surgical dermatology. Due to the logistics of these operations patients are seen by appointment only as the clinic does not permit “walk-ins”. The medical clinic currently employs eight (8) people and can only see a maximum of six (6) patients during a designated timeslot.

The purpose of the proposed expansion is to purely allow for the reorganization of the clinic structure. No additional employees will be added nor, will a higher volume of clients be able to be seen due to the reconfiguration of the space. Therefore, the maximum demand for parking would be 14 spaces as only 14 people total would be in the space at one given time. Moreover, the requested variances for the subject lands also reflect the existing non-conformities at 1662 Upper James as previously stated. As the actual parking demand is met and does not exceed the number of spaces provided, the intent of the Zoning By-law is maintained.

Expansion of a Legal Non-Conforming Use

The previous Staff Consolidation Report dated July 16, 2020 recommended that “The expansion of a legal non-conforming use cannot be approved through a Minor Variance” and that the requested variance be withdrawn. Section 45 (2)(a) of the *Planning Act* states:

- a) where any land, building or structure, on the day the by-law was passed, was lawfully used for a purpose prohibited by the by-law, may permit,
 - i. the enlargement or extension of the building or structure, if the use that was made of the building or structure on the day the by-law was passed, or a use permitted under subclause (ii) continued until the date of the application to the committee, but no permission may be given to enlarge or extend the building or structure beyond the limits of the land owned and used in connection therewith on the day the by-law was passed, or;

The owner obtained a Certificate of Zoning Verification and Property Report (Certificate No. 20-185595 00 ZR2) which acknowledges the recognized use of a Medical Clinic, which is considered a legally established non-conforming use as it has continuously existed prior to the passing of Amending By-law 17-240. Staff Consolidation Report dated July 16, 2020 also acknowledges the use was legally established prior to the Zoning By-law coming into force and effect and the use being continuous since that time.

In keeping with Chapter F, section 1.13.1 of the Official Plan, expansion to legal non-conforming uses must maintain the intent and purpose of the Official Plan and any other requirements of the *Planning Act*. Unlike the other permitted uses within the Arterial Commercial designation, the medical clinic is a destination-oriented use, not intended to serve the daily or weekly needs of the traveling or drive-by consumer like the other Commercial land designations. Therefore, it is our opinion that Section 45 (1) of the *Planning Act* and Chapter F section 1.13.1 of the Official plan is maintained.

Justification

Section 45(1) of the *Planning Act*, R.S.O, 1990, as amended, requires a Minor Variance to satisfy four tests. As noted earlier, the subject property is a legally established non-conforming use that requires the approval of the listed variances to accommodate the expansion of its facility. With the variances proposed, the expansion of operations will continue to operate within the existing structure. As such, the proposed variances satisfy the four test contained in Section 45(1) of the *Planning Act* and represent good land use planning.

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

- One (1) copy of the prior Consolidation Report for HM/A-20:34 dated July 16, 2020;
- One (1) copy of the Certificate of Zoning Verification and Property Report;
- One (1) copy of the Minor Variance Sketch prepared by UrbanSolutions; and,
- One (1) cheque in the amount of **\$275.00** payable to the City of Hamilton for the Minor Variance Recirculation fee.

We trust the enclosed is in order; however, please feel free to contact the undersigned with any questions.

Regards,

UrbanSolutions



Matt Johnston, MCIP, RPP
Principal



Brandon Petter, MPlan
Planner

cc: Dr. Rahul Shukla, Drs Skincare
Mr. Sergio Manchia, MCIP, RPP, UrbanSolutions



Planning and Economic Development Department
Building Division
71 Main Street West, 3rd Floor
Hamilton, Ontario, L8P 4Y5
Phone: 905-546-2720 Fax: 905-546-2764
Email: building@hamilton.ca

Hamilton

CERTIFICATE OF ZONING VERIFICATION AND PROPERTY REPORT

ATTENTION OF: RAHUL SHUKLA
PROPOSED USE: MEDICAL OFFICE (DERMATOLOGIST)

ISSUED BY: David Shortt
TELEPHONE: (905) 546-2424 ext. 7467

CERTIFICATE NO. 20-185595 00 ZR2

1662 UPPER JAMES STREET, HAMILTON

ISSUE DATE: OCTOBER 13, 2020

ZONING DISTRICT:

C7

SECTION 10.7 OF HAMILTON ZONING BY-LAW 05-200 AS AMENDED BY 17-240

THE PROPOSED USE IS: See Comments

COMMENTS:

Building Division records indicate that the recognized use is Offices and a Medical Clinic, which may be legally established non-conforming provided that it has continuously existed since prior to the passing of Amending By-law 17-240 on November 8, 2017 until present.

The Building Division makes no representation and gives no warranty or opinion as to whether the non-conforming use has been lost by discontinuance of use. The Applicant should make appropriate inquiries to satisfy themselves that the non-conforming use has not been lost by discontinuance.

Please be advised that any alterations to the legally established non-conforming use may result in the loss of the legal non-conforming status. Please contact the Building Division at (905) 546-2720 for more information.

The lands are subject to Site Plan Control. As such, development or redevelopment may require application to the Development Planning Division. For further information, please contact (905) 546-2424 extension 1355.

Tenant improvements, change of use, conversions, renovations, alterations, additions or new buildings are subject to the issuance of a building permit from the Building Division.

No survey submitted showing actual conditions.

PROPERTY REPORT

Building Division records indicate the following:

PERMIT UNDER REVIEW: Building Permit No. **17-107285** dated March 27, 2017 remains open. Please contact the Building Division at (905) 546-2720 for more information.

PERMIT UNDER REVIEW: Building Permit No. **19-147453** dated September 30, 2019 remains open. Please contact the Building Division at (905) 546-2720 for more information.

NOTE:

PROPERTY REPORTS PERTAIN TO BUILDING DIVISION FILES ONLY AND RELATE TO ENFORCEMENT PROCEEDINGS COMMENCED BY THIS DIVISION. OTHER DIVISIONS/DEPARTMENTS, INCLUDING BUT NOT LIMITED TO THE PARKING AND BY-LAW ENFORCEMENT DIVISION, FIRE DEPARTMENT, PUBLIC HEALTH SERVICES DEPARTMENT AND PUBLIC WORKS DEPARTMENT MAY HAVE COMMENCED ENFORCEMENT PROCEEDINGS. TO OBTAIN INFORMATION CONCERNING ANY SUCH ENFORCEMENT PROCEEDINGS, YOU MUST CONTACT THOSE DIVISIONS/DEPARTMENTS YOURSELF. ALSO NOTE THAT THIS DOES NOT IMPLY THAT A FIELD INSPECTION HAS BEEN CARRIED OUT.

IMPORTANT:

THIS CERTIFICATE DOES NOT INDICATE THAT AN EXISTING BUILDING OR ITS USE CONFORMS TO THE REQUIREMENTS OF APPLICABLE BY-LAWS, AND REGULATIONS, NOR THAT A LICENCE WILL BE ISSUED IF REQUIRED, OR THAT THE ZONING WILL NOT BE CHANGED AFTER THE DATE OF ISSUANCE.

FOR DIRECTOR OF BUILDING DIVISION

*** THIS CERTIFICATE IS ISSUED WITHOUT LIABILITY ON THE PART OF THE CITY OF HAMILTON OR ITS OFFICIALS ***

MAIL TO: RAHUL SHUKLA, DRS SKINCARE, 1662 UPPER JAMES STREET, HAMILTON ON, L9B 1K5

RAHUL SHUKLA
DRS SKINCARE

1662 UPPER JAMES ST.
HAMILTON ON, L9B 1K5

HM/A-20:34 (1662 Upper James St., Hamilton)

Consolidation Report

The attached comments have been reviewed with regard to the above noted Committee of Adjustment application and the following comments are submitted:

PLANNING and ECONOMIC DEVELOPMENT DEPARTMENT

Development Planning – Suburban

The purpose of this application is to permit the expansion of the legally established non-conforming medical clinic into a 97 square metre portion of the second storey that is currently used as a general office. The existing medical clinic occupies the remainder of the building.

Additionally, a parking area is proposed at the rear of the site to accommodate the additional parking required for the proposed expansion, and four (4) variances are necessary to permit the proposed parking arrangement.

Urban Hamilton Official Plan

The subject lands are identified as “Primary Corridors” on Schedule “E” – Urban Structure and designated “Arterial Commercial” on Schedule “E-1” – Urban Land Use Designations in the Urban Hamilton Official Plan (UHOP).

A medical clinic is not a permitted use within the existing zoning; however, the use was legally established prior to the Zoning By-law coming into force and effect and the use has been continuous since that time. Therefore, the use is considered legal non-conforming. The medical clinic is proposed to expand into the portion of the second storey previously used as general office with the addition of four medical clinic treatment rooms.

Policy F.1.12.9 applies, amongst others, and permits the expansion or enlargement of legal non-conforming uses provided they maintain the intent and purpose of the UHOP and the Zoning By-law.

The Arterial Commercial designation is intended to provide for a range of uses catering to the traveling or drive-by consumer, as well as a limited range of land extensive retail stores (E.4.8.1), including banquet halls, funeral homes, and vehicle sales. Medical clinics are not permitted within the designation. As a result, staff is of the opinion that the proposed expansion of the medical clinic does not maintain the intent of the Arterial Commercial designation.

Staff is unable to support the proposed parking arrangement in the rear yard, as noted below in the Zoning subsection. The subject lands are identified as a Primary Corridor,

and as such, a reduction in the parking requirements has been considered in order to support transit (E.2.4.17).

Staff is of the opinion that the required parking of a total of 19 spaces, being 13 spaces required for the existing medical office plus an additional 6 spaces for the proposed expansion, is inadequate. A previous Minor Variance decision (HM/A-11:215) allowed for a minimum of 13 parking spaces for the existing medical clinic; however, the site has always functioned with 17 parking spaces in the front. Hence, there is no evidence to support that 13 spaces are adequate. Based on the existing GFA of the medical clinic (389.8 sq. m) and the existing parking requirements, 24 parking spaces are required for the existing medical clinic, plus an additional 6 spaces for the proposed expansion for a total of 30. There was a road widening taken, and as a result, there remains 15 of the 17 original parking spaces in the front. Staff is of the opinion that a reduction from 30 spaces to 15 cannot be supported based on existing and proposed transit routes.

Staff is of the opinion that the proposed expansion, without the provision of additional parking, will adversely affect compatibility of the lands with the existing surrounding land uses as a result of overspill parking. Based on the foregoing, staff is of the opinion that the proposed expansion of the legal non-conforming medical clinic does not meet the intent of the UHOP. Staff **does not** support the expansion.

Hamilton Zoning By-law No. 05-200

The subject lands are zoned Arterial Commercial (C7) Zone, which permits a variety of arterial commercial uses, subject to the applicable provisions. A medical clinic is not permitted by the zoning. The existing medical clinic is legal non-conforming. It has been interpreted that the proposed parking at the rear is subject to the requirements of the Zoning By-law.

Variance 1

The expansion of a legal non-conforming use cannot be approved through a Minor Variance. Accordingly, staff recommends that the variance be **withdrawn**.

Variances 2 to 4

Variances 2 and 3 are requested to permit the proposed parking space size of 2.7 m by 5.4 m. Variance 4 is requested to permit the proposed 3.6 m manoeuvring aisle width for the 60-degree parking spaces, whereas the Zoning By-law requires a minimum of 5.5 m for two-way operation.

The intent of these provisions is to ensure safety. The proposed parking space size is inadequate, even for a compact car as per the Zoning By-law. The manoeuvring aisle width does not provide adequate space for vehicles to enter and exit in a forward motion. According, staff is of the opinion that the intent of the Zoning By-law is not maintained. Based on the foregoing, staff **does not** support the variances.

Variance 5

A variance to permit a reduction to zero accessible parking spaces is proposed, whereas a minimum of one accessible parking space is required by the Zoning By-law. One accessible space is required for up to 49 provided parking spaces. There are no existing accessible parking spaces provided in the front. An accessible parking space in the rear yard is not practical or desirable. Although there is an expansion proposed, staff has no concerns with the absence of one accessible parking space for this legal non-conforming use, particularly as even the existing second storey space is currently not accessible by an elevator. The variance meets the intent of the UHOP and the Zoning By-law, is desirable and minor in nature. Staff **supports** the variance.

Recommendation:

Having regard for the matters under subsection 45(2)(a) of the Planning Act, although staff is satisfied that the medical clinic is a legal non-conforming use, and that no enlargement beyond the limits of the lands used in connection therewith is proposed, staff is not satisfied that the purpose and intent of the Official Plan would be maintained, and that the requested permission will not adversely affect the site's compatibility with the existing surrounding land uses. Staff recommends that the requested permission to enlarge a legal non-conforming use be **denied**; and,

That **Variance 1 be withdrawn** as it is not required; and,

Having regard for the matters under subsection 45(1) of the Planning Act, staff is not satisfied that Variances 2, 3 and 4 maintain the purpose and intent of the Zoning By-law. In the opinion of staff, although the intent of the Official Plan is maintained, the variances are not desirable for the appropriate development of the land, nor minor in nature. Staff recommends that Variances 2, 3 and 4, as outlined in the Notice of Hearing, be **denied**.

Staff is satisfied that Variance 5 has regard for the matters under subsection 45(1) of the Planning Act and recommends **approval**.

Building Division:

1. Subject to the issuance of a building permit in the normal manner.

Development Engineering:

No comments.

See attached for additional comments.



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.

FOR OFFICE USE ONLY.

APPLICATION NO. Hm/A-20:34 DATE APPLICATION RECEIVED Jan. 20/20

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

April 23 Hearing

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 R. RAHUL SHUKLA

2. _____

3. Name of Agent BEENU ARYA

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:

RBC Royal Postal Code _____
100 King St. 8th Floor L8P 1A2
HAMILTON Postal Code _____

Silvio CASELLI

6. Nature and extent of relief applied for:

Expansion of legally established non-conforming Medical clinic into 97m² of building. Requires 6.00 spaces 13 spaces are required for existing 18 spaces are provided and 19 spaces are required.

7. Why it is not possible to comply with the provisions of the By-law?

Existing Non-Conforming.

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

1616 1662 Upper James
Hamilton Ont L9B 1K5

9. PREVIOUS USE OF PROPERTY

Residential ☐ Industrial ☐ Commercial ☒

Agricultural ☐ Vacant ☐

Other ☐

9.1 If Industrial or Commercial, specify use

OFFICE

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 ☐ 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 ☒ Unknown ☐

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

Client's Owners feedback of his
knowledge

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 ☐ No ☒

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.

Dec 10, 2019
Date


Signature Property Owner

John Smith
Print Name of Owner

10. Dimensions of lands affected:

Frontage

12m 25.9m REAR - 8.6m

Depth

16.76m SIDE - 4.0m

Area

296 Sm

Width of street

N/A.

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: _____

Proposed: _____
none

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

Existing: _____
See attached

Proposed: _____
None.

13. Date of acquisition of subject lands:

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

2016 2020

15. Existing uses of the subject property:

medical offices/clinic

16. Existing uses of abutting properties:

Auto dealership - Left - South
Variety Store Right - North

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

Since 2016

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

Water ☒

Connected ☒

Sanitary Sewer ☒

Connected ☒

Storm Sewers ☒

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

C7 District

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

C7 District

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

Yes

No

If the answer is yes, describe briefly.

Previous owner in 2011 made an appeal
Application # HMA-11-216
Submission # A215/11

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 referred to in Section 5 and be accompanied by the appropriate fee in cash or by cheque made payable to the City of Hamilton.