#### **COMMITTEE OF ADJUSTMENT**



City Hall, 5<sup>th</sup> floor, 71 Main Street West, Hamilton, ON L8P 4Y5 Telephone (905) 546-2424, ext. 4221, 3935 Fax (905) 546-4202

E-mail: cofa@hamilton.ca

# 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-21:287

**APPLICANTS:** Agent Mainline Planning Services Inc.

Owner Brian Gogek

SUBJECT PROPERTY: Municipal address 33 Sterling St., Hamilton

**ZONING BY-LAW:** Zoning By-law 6593, as Amended

**ZONING:** "C/S-1361" (Urban Protected Residential) district

**PROPOSAL:** To establish a Detached Secondary Dwelling Unit located in the rear

yard of the existing Single Family Dwelling notwithstanding that:

- 1. Three (3) bedrooms shall be provided instead of the maximum two (2) bedrooms permitted within a Detached Secondary Dwelling Unit.
- 2. The required 1.2m side yard of the Detached Secondary Dwelling Unit shall be permitted to be comprised of interlocking brick whereas the by-law prohibits such yard from containing any structures, walkways, sidewalks, hard-surfaced material and landscaping other than sod.
- 3. A total gross floor area of 81.0m² shall be provided instead of the maximum 75.0m² gross floor area permitted for a Detached Secondary Dwelling Unit.
- 4. The required 1.0m wide unobstructed path leading from the front lot line to the Detached Secondary Dwelling Unit shall be permitted to form part of the access driveway on-site.
- 5. One (1) of the three (3) provided on-site parking spaces shall be a minimum 2.7m wide and 4.6m in length instead of the minimum required parking space size of 2.7m x 6.0m.

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

DATE: Thursday, November 4th, 2021

TIME: 2:55 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

HM/A-21: 287

Page 2

#### **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**

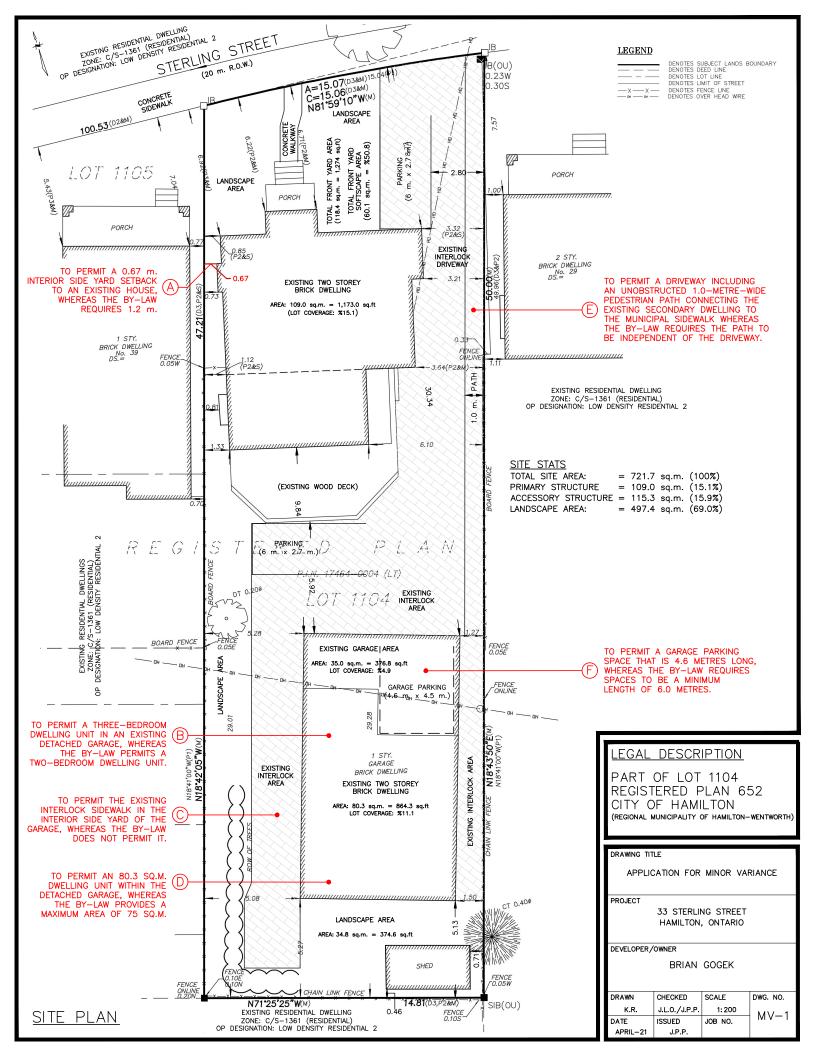
For more information on this matter, including access to drawings illustrating this request:

- 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 <a href="cofa@hamilton.ca">cofa@hamilton.ca</a>

DATED: October 19th, 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.





**Committee of Adjustment** 

City Hall, 5<sup>th</sup> Floor, 71 Main St. W., Hamilton, ON L8P4Y5

Phone: (905) 546-2424 ext. 4221

Email: cofa@hamilton.ca

#### **APPLICATION FOR A MINOR VARIANCE**

FOR OFFICE USE ONLY	
APPLICATION NO.	DATE APPLICATION RECEIVED
PAID	DATE APPLICATION DEEMED COMPLETE
SECRETARY'S SIGNATURE	

#### 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, 2	NAME	MAILING ADDRESS	
Registered Owners(s)	Brian Gogek		
Applicant(s)*	See Agent		
Agent or Solicitor	Mainline Planning Services Inc.		

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

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

Consider Clear

# Additional sheets can be submitted if there is not sufficient room to answer the following questions. Additional sheets must be clearly labelled

<ol> <li>Variar</li> <li>Variar</li> <li>Variar</li> <li>Variar</li> <li>municipa</li> </ol>	Nature and extent of relief applied for: noe to By-law Section 9 (3) (ii): To permit a 0.67m interior side yard setback to an existing house, whereas the By-law requires 1.2m. noe to By-law Section 19 (1) (vi): To permit a three-bedroom dwelling unit in an existing detached garage, whereas the By-law permits a two-bedroom dwelling unit. noe to By-law Section 19 (1) (1) (ii) (2): To permit the existing interlock sidewalk in the interior side yard of the garage, whereas the By-law does not permit it. noe to By-law Section 19 (1) (1) (ii) (8): To permit an 80.3 sq.m. dwelling unit within the detached garage, whereas the By-law provides a maximum area of 75 sq.m. noe to By-law Section 19 (1) (1) (ii) (12): To permit a driveway including an unobstructed 1.0-metre-wide pedestrian path connecting the existing secondary dwelling to the al sidewalk whereas the By-law requires the path to be independent of the driveway. noe to By-law Section 18A (7): To permit a garage parking space that is 4.6 metres long, whereas the By-law requires spaces to be a minimum length of 6.0 metres.
X	Secondary Dwelling Unit Reconstruction of Existing Dwelling
5.	Why it is not possible to comply with the provisions of the By-law?
	existing interior side yard setback of the primary dwelling is less than 1.2m. accessory structure is existing and the requested variances are to bring the structure up to compliance with the By-law.
(Plea	ase refer to cover letter for more details)
MU.	Legal description and Address of subject lands (registered plan number and lot number or other legal description and where applicable, <b>street and street number</b> ):  RT OF LOT 1104, REGISTERED PLAN 652, CITY OF HAMILTON (REGIONAL NICIPALITY OF HAMILTON-WENTWORTH). 33 STERLING STREET, HAMILTON,
ON.	
7.	PREVIOUS USE OF PROPERTY
	Residential
	Agricultural Vacant Other
	Other
8.1	If Industrial or Commercial, specify use N/A
8.2	Has the grading of the subject land been changed by adding earth or other material, i.e. has filling occurred?
	Yes No Unknown
8.3	Has a gas station been located on the subject land or adjacent lands at any time?  Yes   No   Unknown
8.4	Has there been petroleum or other fuel stored on the subject land or adjacent lands?  Yes No Unknown
8.5	Are there or have there ever been underground storage tanks or buried waste on the
	subject land or adjacent lands?  Yes No Unknown
8.6	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 <u>O</u> No <u>●</u> Unknown <u>O</u>
8.7	Have the lands or adjacent lands ever been used as a weapon firing range?  Yes No Unknown Unknown
8.8	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
8.9	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 Unknown

8.10		e site or ad	believe the ljacent sites?			y have been contaminated by f -	ormer
8.11		What information did you use to determine the answers to 8.1 to 8.10 above?  Information provided by current owner.					
8.12	previous us	f previous use of property is industrial or commercial or if YES to any of 8.2 to 8.10, a previous use inventory showing all former uses of the subject land, or if appropriate, the and adjacent to the subject land, is needed.					
	Is the previous	ous use in	ventory attac	hed?	Yes	No	
9.	I acknowled remediation	dge that th n of contar s approva		nilton is ne prop	erty which	onsible for the identification an h is the subject of this Application e Property Owner(s)	
					Brian Go	ogek	
					Print Na	me of Owner(s)	
10.	Dimensions of lands affected: Frontage 15.06m						
	Depth	-	47.21m (irre	gular)			
	Area	-	721.7 sq.m.	`			
	Width of str	eet _	20m (approx	(.)			
11.						posed for the subject lands: (S ories, width, length, height, etc	
	Existing:_ Proposed N/A	Gross Floo Width = 1	oor Area = 109 or Area = 296 s 0.37m (approx 11.58 m (appro	sq.m. .)		Accessory Structure: Ground Floor Area = 115.3 Gross Floor Area (unit) = 80 Gross Floor Area (garage) = Width = 8.23m Length = 14.02m Height = +/-3m	0.32 sq.m.
12.		Primary D Front yard Side yard s Side yard s	ar and front	m = 0.67m : 3.21m		Accessory Structure: Front yard setback = 30.34m Side yard setback (west) = 5.08m Side yard setback (east) = 1.27m Rear yard setback = 5.13m	ecify

13.	Date of acquisition of subject lands: May 29, 2009				
14.	Date of construction of all buildings and structures on subject lands: Circa 1940 & 2016				
15.	Existing uses of the subject property (single family, duplex, retail, factory etc.):				
	Residential				
16.	Existing uses of abutting properties (single family, duplex, retail, factory etc.):				
	Residential				
17.	Length of time the existing uses of the subject property have continued: 81 Years (approx.)				
18.	Municipal services available: (check the appropriate space or spaces)  Water				
19.	Present Official Plan/Secondary Plan provisions applying to the land: Urban Hamilton Official Plan = Neighbourhoods Ainslie Wood Westdale Secondary Plan = Low Density Residential 2				
20.	Present Restricted Area By-law (Zoning By-law) provisions applying to the land: Former City of Hamilton Zoning By-law 6593 and By-law 19-307. The property is zoned C/S-1361, exception S-1788.				
21.	Has the owner previously applied for relief in respect of the subject property?  Yes No x				
	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 <i>Planning Act</i> ?  Yes  No				
23.	Yes No No Additional Information				
24.	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.				



September 16, 2021

Committee of Adjustment Planning and Economic Development Department 71 Main Street West, 5<sup>th</sup> Floor Hamilton, ON L8P 4Y5

Attention: Ms. Jamila Sheffield, Secretary-Treasurer for the Committee of Adjustment

**RE:** Minor Variance Application. 33 Sterling Street, Hamilton

Dear Ms. Sheffield,

Mainline Planning Services Inc. is retained by Brian Gogek ('owner') as his agent with respect to the above referenced matter.

The purpose of this minor variance application ('the proposal') is to address zoning deficiencies associated with an existing primary dwelling and an existing secondary dwelling unit (located in a detached garage).

The following plans and documents are provided in support of the above referenced application.

- One (1) 'pdf' copy of the duly completed Minor Variance Application Form.
- One (1) 'pdf' copy of the sketch prepared by Mainline Planning Services Inc.
- One (1) 'pdf' copy of letters provided by neighbours.
- The required application fee of \$600 will be paid via credit card.

#### **Background:**

#### The Subject Property

- The municipal address of the subject property is 33 Sterling Street. The existing home was constructed circa 1940's.
- The property is within a walkable community, only 1 kilometer east of McMaster University, near restaurants, grocery stores, community centers, schools, parks.
- The property is well serviced by transit, linking it to all areas of the city including the King Street commercial district.

#### Secondary Housing By-law

• Following the enactment of By-laws 18-299 and 19-307, the City of Hamilton passed By-law 21-076 ('the By-law') in April of 2021 to create a supply of affordable rental housing within accessory buildings ('secondary structures').

#### **Proposal**

 The variance is required to address zoning deficiencies to bring existing buildings into compliance with the By-law.

#### The Variances (Zoning By-law No. 6593):

- a. <u>Variance to By-law Section 9 (3) (ii):</u> To permit a 0.67m interior side yard setback to an existing house, whereas the By-law requires 1.2m.
- b. <u>Variance to By-law Section 19 (1) (vi):</u> To permit a three-bedroom dwelling unit in an existing detached garage, whereas the By-law permits a two-bedroom dwelling unit.

- c. <u>Variance to By-law Section 19 (1) (1) (ii) (2):</u> To permit the existing interlock sidewalk in the interior side yard of the garage, whereas the By-law does not permit it.
- d. <u>Variance to By-law Section 19 (1) (1) (ii) (8)</u>: To permit an 80.3 sq.m. dwelling unit within the detached garage, whereas the By-law provides a maximum area of 75 sq.m.
- e. <u>Variance to By-law Section 19 (1) (1) (ii) (12)</u>: To permit a driveway including an unobstructed 1.0-metre-wide pedestrian path connecting the existing secondary dwelling to the municipal sidewalk whereas the By-law requires the path to be independent of the driveway.
- f. <u>Variance to By-law Section 18A (7):</u> To permit a garage parking space that is 4.6 metres long, whereas the By-law requires spaces to be a minimum length of 6.0 metres.

#### The Planning Act:

Section 45(1) of the *Planning Act* ("Act") allows the Committee of Adjustment to authorize variances to a zoning By-law where the variance is minor; is desirable for the appropriate development or use of land, building or structure; maintains the general intent and purpose of the Official Plan; and maintains the general intent and purpose of the zoning By-law. The Committee must be satisfied that all four tests are met to authorize the requested variance.

#### **The Four Tests**

#### 1. The Variances are Minor

a. Permitting a Reduction in Side-Yard Setback of the Principal Residence is Minor:

**Planning Opinion** 

It is our considered and professional planning opinion that the variance is minor as the principal dwelling was constructed circa 1940 and is therefore considered legal non-conforming to the in-force Bylaw.

b. Permitting a 3-Bedroom Dwelling Unit is Minor:

Planning Opinion

The property is in an existing residential community that is adequately serviced by public transit and is within walking distance to neighbourhood stores, schools and parks. Allowing a 3-bedroom unit in this case is a minor amendment to the By-law and will provide affordable rental housing that could be used by families or students which is encouraged by Official Plan policies.

c. Permitting an Existing Interlock Sidewalk Within an Interior Side Yard is Minor:

**Planning Opinion** 

It is our considered and professional planning opinion that the existing sidewalk will not cause an unacceptable adverse impact on the neighbour's property and is necessary to provide access to the garage and the existing dwelling unit.

- d. The Proposed Increase in Floor Area of the Secondary Dwelling Unit is Minor:
  - ✓ The By-law limits the gross floor area ('GFA') of a secondary dwelling to 75 sq.m.
  - ✓ A variance is needed to permit an existing rental dwelling that is 80.3 sq.m. in habitable GFA.

**Planning Opinion** 

It is our considered and professional planning opinion that the variance is minor in size as the

relief will result in a unit that is approximately 5 sq. m. larger than a unit otherwise permitted by the By-law.

#### e. Utilizing an Existing Driveway for Pedestrian Access to the Secondary Dwelling is Minor:

#### Planning Opinion

It is our considered and professional planning opinion that there is sufficient space on the property to accommodate parking and allow the driveway to remain unobstructed to pedestrians accessing the secondary dwelling (i.e. garage apartment unit).

#### f. Permitting a parking spot with a reduced length is Minor:

- ✓ The average length of a compact sedan is 4.5m (177.2 in)
- ✓ The average length of a compact SUV is 4.4m (172.3 in)

#### **Planning Opinion**

It is our considered and professional planning opinion that the variance is minor as the proposed parking length of 4.6m is sufficient to accommodate the tenant's vehicle.

# 2. The Proposal is Desirable for the Appropriate Development of Land, Building and Structure

#### Planning Opinion

It is our considered and professional planning opinion that the proposal is desirable for the appropriate development of land, building, and structures.

- ✓ The proposal is desirable to the owner who wishes to bring the property into compliance with the By-law.
- ✓ The proposal is **desirable to adjacent property owners** who provided letters in support of the proposal.
- ✓ The proposal is **desirable to the City** as it creates affordable rental housing.
- ✓ The proposal is desirable to the Province as it creates affordable rental housing.
- ✓ The proposal is desirable to students (existing tenants) that require affordable housing close to McMaster University.

#### 3. The Proposal Maintains the General Intent and Purpose of the Official Plan

We have reviewed the City's Urban Official Plan ('OP') and offer that the following policies support this proposal.

- ✓ In conformity with OP policy 3.2.4.1 and 3.2.4.2, "The development of a full range of housing forms, types, and densities shall be provided for and promoted throughout the City of Hamilton through residential intensification and new development".
- ✓ In conformity with OP policy 3.2.4.2, "Where there are documented unmet needs for housing tenure, affordability levels or support services, priority shall be given to development applications that help meet those needs".
- ✓ In conformity with OP Policy 3.2.4.5, "Subject to the City undertaking a study, in certain conditions it may be appropriate to permit new detached second dwelling units on lots of existing single detached dwellings". The study was completed, and the By-law now permits secondary dwellings in garages.
- ✓ In conformity with policy 6.2.4(a) in the Ainslie Wood Westdale Secondary Plan the proposal will ... "Provide a diversity of suitable housing choice for families, students, seniors and others".
- ✓ In conformity with OP policies 6.2.5.2 (a-c) as well as general policy 6.2.5.3 (a), the proposal will provide a unique form of housing that maintains the existing low-density character of the neighbourhood while taking advantage of an infill opportunity that maintains the built form of the site while providing affordable rental housing.

#### **Planning Opinion**

It is our considered and professional planning opinion that the proposal maintains the general intent and purpose of the Official Plan.

#### 4. The Proposal Maintains the General Intent and Purpose of the Zoning By-law

- ✓ The subject property is zoned C/S-1361 ('C' District Urban Protected Residential)
- ✓ By-law 21-076 is in force and applicable to the subject property permitting secondary dwelling units in accessory structures.

#### Planning Opinion

It is our considered and professional planning opinion that the proposal meets the general intent and purpose of the zoning By-law as it promotes the existing secondary dwelling unit and the principal residence.

#### **Conclusion:**

It is our professional planning opinion that the Committee's approval of the proposal is justified and is good planning. The variances are minor in nature, consistent with the general purpose and intent of the By-law and Official Plan and will cause no unacceptable adverse impact on neighbours. In addition, the creation of affordable housing within urban settlement areas is consistent with the Provincial Policy Statement and in conformity with provincial plans including the Growth Plan and Bill 108: The More Homes, More Choice Act, 2019.

We trust that our Planning opinion is supported by staff and results in a recommendation for Committee approval. If you require anything further, please do not hesitate to contact the undersigned at 905-893-0046.

Respectfully Submitted.

mainline planning services inc.

Joseph P. Plutino, RPP, MCIP

cc. client

Naeem Lakhani, Junior Planner

# Support Letters for a Secondary Dwelling at 33 Sterling St., Hamilton



Irene Vujic – 39 Sterling St., Hamilton

James Zourntos – 29 Sterling St., Hamilton

Dr. Jean Wilson - 38 Cline Ave. N., Hamilton

May 31, 2019

To Whom It May Concern:

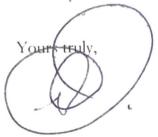
Re: Secondary Dwelling - 33 Sterling St., Hamilton

I reside immediately to the west of the subject property, at 39 Sterling Street. I have owned my property since 2004.

I'm aware that Brian Gogek is taking steps to remedy compliance issues related to his garage conversion to a secondary dwelling.

This letter is an unqualified endorsement of the use, and he has my full support. Let me add that for the ten years I've known him, he has been a responsible Landlord and neighbour.

Should you need to contact me, my info is noted below.



James Zourntos j\_zourntos@yahoo.ca 29 Sterling Street, Hamilton, ON L8S 4H6 905 531 7820

May 31, 2019

To Whom It May Concern:

Re: Secondary Dwelling - 33 Sterling St., Hamilton

I own the property at 29 Sterling Street, immediately to the east of the subject property. I've owned my property since 2011.

I'm aware of the City's By-Law relating to Laneway residences and secondary dwellings, which regrettably does not cover our area.

Be that as it may, I'm aware that Brian Gogek is taking steps to remedy compliance issues related to his garage conversion to a secondary dwelling, and he has my full unqualified support of the use.

Incidentally over the years, I've known Mr. Gogek to be a responsible property owner and neighbour.

Do not hesitate to contact me, should it be required.

Yours truly

James Zourntos

Dr. Jean Wilson 38 Cline Avenue North Hamilton, ON, L8S 3Z4 (905) 546-1581 wilsonj@mcmaster.ca

8 June 2019

To Whom It May Concern:

Re: Secondary Dwelling – 33 Sterling St., Hamilton, Ontario

I am the homeowner at 38 Cline Ave. North, where I have lived since buying the property in 1991. My backyard meets the backyard of 33 Sterling St., and I'm very familiar with the property. (For instance, I remember years ago, when a former owner of the 33 Sterling property and I consulted on the building of a new fence to separate the two backyards as well as the planting of trees in each of our yards.)

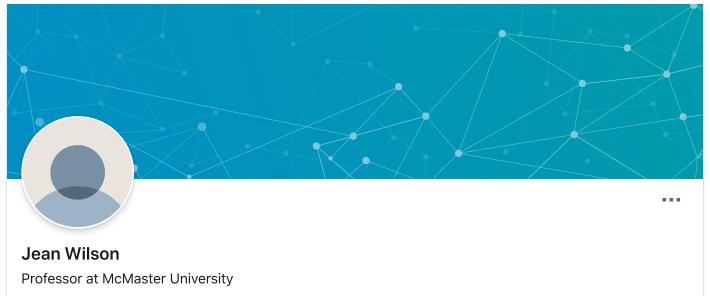
I am acquainted with Brian Gogek and am aware that he is taking steps to address the compliance issues related to the conversion of his garage to a secondary dwelling. This letter is to indicate my support for Brian's efforts in this regard and indeed for efforts by others in the City of Hamilton to develop by-laws that would permit such secondary dwellings where appropriate. I applaud Brian's initiative here and support it fully.

Please do not hesitate to contact me if I can be of any assistance.

Sincerely yours,

Dr. Jean Wilson





Hamilton, Ontario, Canada · 199 connections

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McMaster University

McMaster University

# Experience



### **Director, Arts & Science Program**

McMaster University

Jul 2011 - Present · 10 years 1 month

Hamilton, ON



# **Director, Comparative Literature Program**

McMaster University

Jul 2007 - Jun 2010 · 3 years

Hamilton, ON

# Education



### **McMaster University**

B.A. (Honours) · French and German





# Licenses & Certifications



# **YWCA Hamilton Women of Distinction Nominee**

YWCA Hamilton

Issued Mar 2019

Credential ID www.ywcahamilton.org

# Languages

**French** 

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German

\_

# Groups



YWCA Hamilton Women of Distinction Alumni

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McMaster Arts & Science Alumni

View Jean's full profile

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**&** Contact Jean directly

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