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June 28, 2022

TO WHOM IT MAY CONCERN:

Dear Sirs and Madams:

RE: Mattiussi Application for Minor Variance  
33-35 Wellington St N

It is our position that the minor variance application allowing the expansion of the residential use into the previous commercial floorspace of the residence conforms to the overarching planning principles in that residential and other uses must operate together in a community. Applying hard and fast rules does not always make sense and in this case, from a planning perspective, it would be prudent to allow for a residence to be used as a residence. Specific provisions of the Official Plan are dealt with below and the Planning Act is also referenced in relying upon s. 45(2)(a)(i).

Official Plan, s.7.3

7.3.2.1 – there is no question that the current residence is a legal non-conforming use.

7.3.2.2 – the residence on the subject property does not lend itself to a commercial use. It has been a residence for decades and there is no intention to use it any other way than as a residence.

7.3.2.3

- a) this does not fall into the specific definition of hardship from the Official Plan, but common sense would dictate that forcing people in their later years to incur the expense of an elevator, or continued use of stairs, when there is an opportunity to move a bedroom to ground level would, or should, also fall into the definition of hardship.
- d) the extension of the existing legal non-conforming use falls within s.45(2)(a)(i) of the Planning Act, RSO 1990 as the existing use was in place at the time of the passing of the by-law and is not being extended beyond what was owned at that time.
- f) the proposed extension/enlargement is more compatible with the immediate surroundings than a commercial use and would have less affect on the neighbouring uses, traffic, parking conditions and would not have any detrimental affect to the immediate surroundings.

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Official Plan, s.7.4

This application falls under 7.4.1 in that it is an application to extend a legal non-conforming use.

This application complies with 7.4.2 in the following ways, in relation to a-e of the interpretation section of 7.4.2:

- a) The By-law requirements cannot be met as the portion of the residence which was used commercially is integral to the residence which is a legal non-conforming use. When the owners of the home were working, it made sense to operate as a barber shop and hair styling business, but it would not have made sense for anyone else to do so as the space was integral to the home. There is no question that the entire building looks like it is part of a residence. It makes no sense to force them to rent out a portion of their home to someone else to use commercially.
- b) The general intent of the zoning by-law is to regulate the use of lands while acknowledging that certain uses may not line up with the plan but are entitled to remain. This legal non-confirming use makes sense. It is a residence withing a commercial zone, located among other residences.
- c) For the same reasons, this does not offend the Official Plan.
- d) The only commercial use in the immediately surrounding area is directly across the road to the West. Beside that commercial use is a residence (to the Southwest). Immediately to the South of the subject property is a house. Directly to the East is a multi-unit residential property with a residence in a converted outbuilding/garage, as well as a vacant lot. South and East from the subject property is a multi-family residential apartment building. If there is an incompatible building in this grouping, I would suggest it is Jacob's Liquidation, not the residential uses all around it.
- e) Stand in front of the subject property. Ten people out of ten would say it is a house. Expanding the residential use into the previously commercial home-based occupation makes sense and is completely in keeping with the construction and design of the existing building.

Yours very truly,

Waghorn, Stephens, Sipos and Poulton  
Law Professional Corporation



Per: Ben D. Waghorn