



311 George St. N. Suite 200  
Peterborough, ON K9J 3H3

T 705.876.8340 | F 705.742.8343

www.ecovueconsulting.com

February 13, 2024

Township of Cavan Monaghan  
988 County Road 10  
Millbrook ON  
LOA 1G0

Attn: Karen Ellis, Director of Planning

Re: **Application for Minor Variance**  
**9 Tupper Street**  
**Part of Lot 12, Concession 5, Millbrook, Township of Cavan Monaghan, County of**  
**Peterborough**  
**EcoVue Reference 23-2590**

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Dear Ms. Ellis,

The following has been prepared in support of an application for a Minor Variance at the above-noted property. The purpose of the Minor Variance is to permit the interior renovation of what is known municipally as the 4<sup>th</sup> Line Theatre Box Office and Administrative Centre, located at 9 Tupper Street, in the Cavan Ward, Township of Cavan Monaghan. To accommodate the proposed renovation, variances to the following Township of Cavan Monaghan Zoning By-Law provisions are being requested:

1. Section 4.2 – Table 4B Additional Regulation (2) – a variance from this provision is being requested to *permit office space on the ground floor, where it is currently not permitted*; and
2. Section 12.2.9 – a variance from this provision is being requested to *permit tandem parking on a site that is not residential and is not accessed via driveway or parking aisles, which is currently not permitted*.

Below is a summary of the proposed development and an examination of the proposed Minor Variances in the context of the Provincial and local land use planning policies.



## 1.0 BACKGROUND

The property has a municipal address of 9 Tupper Street, and is known legally as Part of Lot 12, Concession 5, Millbrook, Township of Cavan Monaghan, County of Peterborough.

The property is approximately 561.51 square metres (0.139 acres) with 13.17 metres of frontage on Tupper Street and 42.64 metres of frontage on Centre Street, in the urban settlement area of Millbrook. The subject property contains one (1) 2-storey building and a parking area with eight (8) surface parking spaces. Access to the property is gained via Centre Street.

The property is designated Community Core and Millbrook Special Policy Area (SPA) according to Schedule 'A-1' to the Township of Cavan Monaghan Official Plan. The property is also subject to the provisions of the Core Mixed-Use Three (CMU3) Zone, Floodplain Overlay (f212.7), and Special Policy Area in the Township of Cavan Monaghan Zoning By-Law No. 2018-58.

### 1.1 Description of the Proposed Development

The property owners, the Fourth Line Theatre Company, would like to permit the interior of the existing building to function as office space (i.e. box office and administrative offices).

The interior will consist of one (1) retail area, one (1) meeting room, and one (1) mixed retail/admin area on the ground floor. The second storey will be used for storage/administrative purposes.

### 1.2 Pre-Consultation with the Township of Cavan Monaghan

A Pre-Consultation meeting between Township staff and EcoVue Consulting Services staff was attended via Zoom on October 10, 2023. A copy of the Pre-Consultation Summary is included as **Appendix A** to this Letter.

Overall, the Township was supportive of the proposed Minor Variance application, subject to sufficient planning justification being provided for the proposed variances. The duration of this Letter will provide support for the proposed variances, as requested.



In addition to this Minor Variance application, the Township has requested the submission of a Site Plan Approval application. Submission of the Site Plan Approval application will occur following the Townships acceptance of this Minor Variance application, and assuming approval of the requested variances by the Township's Committee of Adjustment.

## **2.0 APPLICATION FOR MINOR VARIANCE**

Section 45 (1) of the *Planning Act* sets out "four tests" to be considered when submitting a Minor Variance application. The four tests are:

1. The application shall meet the general intent of the Official Plan;
2. The application shall meet the general intent of the Zoning By-law;
3. The requested variance is minor in nature; and
4. The requested variance is desirable for the appropriate development or use of the land, building or structure.

Below is a summary of the proposed Minor Variance in the context of the four tests listed above.

### **2.1 General Intent of the Official Plan**

The County of Peterborough Official Plan is an upper-tier Official Plan (OP) that is intended to ensure that the County of Peterborough evolves, improves, and realises its full potential in areas such as transit, land use development, and the environment. In addition to the County OP, the policies of the Township of Cavan Monaghan Official Plan apply.

#### **2.1.1 County of Peterborough Official Plan**

The subject property is designated Settlement Areas according to the County of Peterborough Official Plan (CPOP) and therefore, the policies of Section 4.2 (Settlement Areas Designation) are applicable. It is within this Section that it states that the intent of the designation is to *"to promote the role of settlement areas as the primary employment centres and location for commercial and industrial uses and to plan for related land and infrastructure requirements"*. Furthermore, Section



4.2.3 states that “[w]here possible, but especially for development on full services, mixed-use developments, [...] reducing parking requirements, [...], variations of lot sizes, unit types, and a mix of storefront retail and residential zoning are encouraged in order to ensure more complete and livable neighborhoods for residents. Smaller driveways, wider sidewalks, curbside parking and narrower streets are also encouraged”.

The proposed minor variances are being requested to permit tandem parking for non-residential uses and to permit office uses on the ground floor. It is our opinion that the above-noted policy, which does not explicitly address tandem parking, is supportive of reduced parking spaces within settlement areas as a viable alternative to providing the total required spaces. Due to the configuration of the lot, tandem parking spaces are being utilized to provide the maximum amount of parking spaces on-site. It is our opinion that this meets the intent of the above-noted policy.

Additionally, speaking to the proposed office uses on the ground floor, although the CMU3 Zone does not permit office uses on the ground floor, it is our opinion that the Settlement Areas designation policies permit the proposed use, as detailed throughout Section 4.2 of the CPOP.

Based on the above, it is our opinion that the proposed variances conform to the policies of the County of Peterborough Official Plan.

### **2.1.2 Township of Cavan Monaghan Official Plan**

The subject lands are designated Community Core and Millbrook Special Policy Area (SPA) according to Schedule ‘A-1’ of the Township of Cavan Monaghan Official Plan (CMOP).

The Community Core designation is intended to support a mix of commercial, tourism, and other mixed uses while protecting the historic nature within the municipality. According to Section 4.2.1a) of the CMOP, one of the Township’s goals is to “develop, maintain and promote the Community Core as a focal point for commerce, tourism and pedestrian-scale activity in the Township”. Section 4.2.1c) states another goal is to “encourage the development of a mix of uses at a density that will enhance the character and vitality of the Community Core”.



The subject property is currently surrounded to the north, south, and west by existing or proposed commercial uses, some of which include Premium Fuels, Millbrook Farm, Garden and Pet Supply, LCBO, Foodland, Moody's Bar and Grill, etc. There are also residential uses to the east, a majority of which are single detached dwellings. Providing additional commercial office space within the neighbourhood will satisfy the Township's goal of encouraging a mix of uses within delineated settlement areas which is consistent with the policies of Section 4.2.

Section 4.2.2a) of the CMOP states that permitted commercial uses within the Community Core designation include: *"(ii) Business, professional and medical offices; [...]"*.

As noted above, the proposed minor variance will allow for the development of office space on the ground floor of the existing structure on the subject lands. Therefore, the proposed development conforms to the policies of 4.2.2.

Moving to the General Development policies contained in Section 4.2.3, Subsection b) states that: *"mixed use buildings are encouraged within the Community Core designation. It is intended that the permitted commercial uses will be developed on the ground floor. Residential and office uses are encouraged above the commercial uses located on the ground floor; [...]"*. Subsections e) and f) further state that *"e) All new development/redevelopment within the area designated Community Core Area shall be subject to Site Plan Control; and, f) Maximum building size for retail uses in the Community Core Area will be 900 square metres ground floor area."*

Although the above-noted policy encourages office space to be located above commercial uses on the ground floor, in the case of the subject lands, there is not adequate space to locate the proposed office space on the second storey. Additionally, there are no proposed exterior additions or enlargements proposed with the requested variances. As such, the required office floor space is only available on the ground floor of the existing structure. Additionally, the proposed uses will be adequately serviced, with no negative impacts to surrounding properties.

Speaking to e) and f), the maximum proposed commercial retail area will be 40.26 square metres (retail area + retail/admin area), and Site Plan Approval will be sought assuming the approval of the requested variances.



Therefore, it is our opinion that the proposed minor variances meet the intent of the CMOP.

## **2.2 General Intent of the Zoning By-law**

The subject property is zoned Core Mixed-Use Three (CMU3), Floodplain Overlay (f212.7), and Special Policy Area according to the Township of Cavan Monaghan Zoning By-law No. 2018-58 (CMZBL).

According to Section 4.2 – Table 4B (Permitted Non-Residential Uses) of the CMZBL, the CMU3 Zone permits a variety of non-residential uses including but not limited to business offices.

### **2.2.1 Requested Variance No. 1 – Office Space on the Ground Floor in the CMU3 Zone**

Business offices, although permitted, are subject to the “Table 4B Additional Regulations” contained in the CMZBL. Table 4B Additional Regulation (2) states that: *“business offices, personal service establishments, and repair or service shops are not permitted on the first storey of a building”*. As proposed, there is approximately 40.26 square metres of office space proposed to be permitted maximum (meeting room + retail/admin area). Therefore, a variance from this provision is being requested.

The intent of locating offices above the ground floor is to prioritize commercial, accessible walk-in uses on the ground floor. In the case of the subject property, the ground floor will provide both commercial and office uses. Additionally, due to the configuration of the current structure, and the fact that the owners are not planning any additions or enlargements to the structure, it is only possible to locate the office uses on the ground floor.

It is our opinion that locating both commercial and office uses on the ground floor meets the intent of the policy.

### **2.2.2 Requested Variance No. 2 – Tandem Parking for Uses that are Non-Residential**

The submitted Site Plan currently features tandem parking spaces to service the proposed use. Since the primary use of the subject lands is changing from residential to commercial, Section 12.2.9 (Access to Parking Areas and Structures) of the CMZBL applies.





Subsection 12.2.9 a) states that *“access to parking areas shall be provided from a public street by means of one or more un-obstructed driveways not exceeding:*

*(i) 6.0 metres in width for a driveway accessory to a single dwelling, and,*

*(ii) 10.0 metres in width for any other driveway*

*measured parallel to the said street, at any point on the lot closer to the said street than the street setback required therefrom, [...]”.*

Subsection 12.2.9 b) further states that

*driveways and parking aisles shall have a minimum unobstructed width of 6 metres where two-way traffic is permitted and 3 metres driveway where only one-way direction of traffic flow is permitted and is clearly indicated by signs, pavement markings or both, except that the minimum width required for any driveway accessory to a single detached, semi-detached or townhouse dwelling shall be 2.5 metres.*

Based on the above provisions, the existing tandem spaces are not permitted with the proposed non-residential use as they are not accessed via driveway nor provide the required minimum aisle widths. As such, a variance from this provision is being requested.

The intent of limiting tandem parking to residential uses is to ensure that there is appropriate ingress and egress for patrons accessing commercial/institutional/industrial uses.

The proposed commercial uses on the site will encourage significant walk-in traffic, in some cases where residents are accessing the site for a very limited amount of time.

Furthermore, due to the current configuration of the subject lot and the existing structure, as well as the limited lot area, there is no additional area on the subject lands to locate the required driveway or parking aisles without reducing the number of parking spaces. A review of historical aerial imagery reveals that tandem parking has been utilized on the site for at least 12 years. Although the proposed use on the subject lands is changing, it is our opinion that the proposed new use does not increase the intensity of use occurring on the lands. Since the site has been able to properly



function with tandem parking, it is our opinion that the continued use of tandem parking is appropriate.

In addition to the above, each proposed parking space will meet the minimum 6.0 metre by 3.0 metre dimensions, as required under Section 12.2.3 of the CMZBL.

Given the above, it is our opinion that proposal meets the general intent of the Township of Cavan Monaghan Zoning By-law.

### **2.3 The Requested Variance is Minor in Nature**

It is our opinion that the proposed variances will not result in any adverse impacts to the surrounding uses or the overall streetscape, and thus, can be considered minor in nature.

Speaking to the proposed variances, neither of the variances request exterior alteration, enlargement, or addition to what currently exists on the site, thereby limiting any potential impacts from exterior construction or future massing. The proposed uses will not generate large amounts of walk-in traffic, thereby ensuring limited impact on the surrounding neighbours. Additionally, the proposed commercial use is compatible with, and will further diversify the uses available and permitted within the settlement area.

Therefore, it is our opinion that the proposed variances are minor in nature.

### **2.4 Desirable for the Appropriate Development or Use of the Land, Building or Structure**

It is our opinion that the proposed development is desirable and appropriate for the existing residential area as the proposal:

1. Will not result in significant impacts to adjacent lands and will comply with all other zoning requirements under the Township of Cavan Monaghan Zoning By-law No. 2018-58;
2. Will not result in any changes to the character and future design of the neighbourhood as no exterior renovations to the existing building are required to accommodate the proposed development;





3. Directly aligns with policies directing commercial uses to delineated settlement areas, as reflected in provincial planning legislation and policies (*Planning Act*, Provincial Policy Statement); and
4. Reflects the general intent of the County of Peterborough Official Plan and Township of Cavan Monaghan policies to encourage commercial within settlement areas.

## **2.5 Consistency/Conformity with Provincial Plans**

In addition to the “four tests” under Section 45(1) of the *Planning Act*, minor variances shall also be consistent with policy statements, and conform to provincial plans, issued under s.3 of the *Planning Act*.

### **2.5.1 Provincial Policy Statement**

The 2020 Provincial Policy Statement (2020) provides a policy framework for land use planning within the Province of Ontario. It is the responsibility of the local planning authorities, in this case, the Township of Cavan Monaghan, to uphold the policies of the PPS pertaining to land use planning and development. In particular, the planning authorities must ensure that their decisions are consistent with key provincial interests including policies related to settlement areas in urban communities.

The subject property is located within the delineated urban community boundary of Millbrook and is, therefore, subject to Section 1.1.3 (Settlement Areas) of the PPS.

Section 1.1.3 of the PPS outlines policies as they relate to Settlement Areas. Section 1.1.3.1 states “*that settlement areas shall be the focus of growth and development*” and that “*land use patterns within settlement areas shall be based on densities and a mix of land uses which...efficiently use land and resources*”.

The proposed development will occur in a settlement area and will represent the diversification commercial uses within the build boundary that can be accommodated on the existing servicing, thereby demonstrating efficient use of land.



Therefore, the proposed development is consistent with the applicable sections of the PPS.

### **2.5.2 A Place to Grow: Growth Plan for the Greater Golden Horseshoe**

A Place to Grow: Growth Plan for the Greater Golden Horseshoe (Growth Plan, 2020) is a Provincial growth management plan. Generally, the policies of the Growth Plan direct development and growth to urban areas that are supported by existing infrastructure, including transit and municipal water and sewer systems. The Growth Plan also provides policies for limited, compatible growth outside of settlement areas.

The Township of Cavan Monaghan and greater County of Peterborough is located within the Greater Golden Horseshoe and therefore, is subject to the Growth Plan. The Growth Plan is administered under the *Places to Grow Act, 2005* and is designed to inform “*decision-making regarding growth management and environmental protection in the GGH [Greater Golden Horseshoe]*”. The Plan provides policies for land use planning in the County to 2041.

As stated, the subject lands are located in Millbrook, and therefore subject to Section 2.2.1.2 of the Growth Plan. Subsection 2.2.1.2 a) states that “*the vast majority of growth will be directed to settlement areas that:*

- i. have a delineated built boundary;*
- ii. have existing or planned municipal water and wastewater systems; and*
- iii. can support the achievement of complete communities*

Furthermore, Subsection 2.2.1.2 d) states that “*development will be directed to settlement areas*”.

The subject property is located within a delineated settlement area on full municipal servicing (i.e. municipal water and sewage). The proposed permission will not require an uneconomical extension of services and can be accommodated through the existing supply of municipal services.

Further, Section 2.2.5 (Employment), Subsection 2.2.5.3 states that “*Retail and office uses will be directed to locations that support active transportation and have existing or planned transit*”.



The subject property is located at the intersection of Tupper Street and Centre Street; one of the main intersections in Millbrook. There are various uses (commercial, institutional, etc.) within a 500-metre distance of the subject lands. It is our opinion that the proposed commercial/office use within an existing structure aligns with the Growth Plan’s objectives for settlement areas.

Therefore, it is our opinion that the proposed permission conforms with the policies of the Growth Plan.

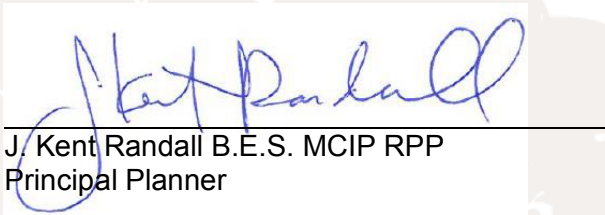
### 3.0 SUMMARY

It is our opinion that the proposed Minor Variances to Section 4.2 Table 4B Additional Regulation (2) and Section 12.2.9 in the Township of Cavan Monaghan Zoning By-law No. 2018-58, meet the four “tests” provided in Section 45(1) of the *Planning Act*. Based on the foregoing review of the relevant *Planning Act* and policy considerations, it is our opinion that the Minor Variances constitute good planning.

We trust this Letter-Report adequately addresses all applicable requirements under the *Planning Act* as it relates to the subject Minor Variance application. Should you have any questions or require any clarifications, please do not hesitate to contact the undersigned.

Respectfully submitted,

**ECOVUE CONSULTING SERVICES INC.**



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J. Kent Randall B.E.S. MCIP RPP  
Principal Planner



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Jessica Rae Reid, B.A  
Planner