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Corporation of the Town of Erin

5684 Trafalgar Rd.

Hillsburgh, ON N0B 1Z0

Attention: Town Council/Heritage Committee/Planning Department

Dear Town Council/Heritage Committee/Planning Department,

RE: Appeal of Heritage Designation for 35 Main Street, Erin

I am writing on behalf of the McEnery family to formally appeal the heritage designation of their property at 35 Main Street, Erin on the grounds that it does not meet the necessary threshold for designation under the *Ontario Heritage Act*. Specifically, the designation relies only on the following:

1. The property has historical value or associative value because it has direct associations with a theme, event, belief, person, activity, organization or institution that is significant to a community; and,
2. The property has contextual value because it is important in defining, maintaining or supporting the character of an area;

out of the nine possible criteria outlined in Ontario Regulation 9/06. Although perhaps meeting a minimal threshold for discussion under these criteria, the analysis under these criteria does not provide a strong or compelling basis for designation.

Lack of Significant Cultural Heritage Value

Under the *Ontario Heritage Act*, a property must meet at least one of three broad categories of criteria: design/physical value (*not met*), historical/associative value (*not met*), or contextual value (*not met*), and the Town relies on criteria in two of these categories because the threshold for historical significance under any one category is simply not met with respect to this property. While 35 Main Street has been assessed under criteria pointing to its historical value and criteria suggesting its contextual value, a closer examination shows that despite the property's existence in the history of this Town, the current building lacks the requisite historical, architectural, and community significance that the Ontario Heritage Designation is meant to preserve.

- A. **The Building's Lack of Historical/Associative Value.** The first criterion relied on by Council in Recommendation Report Number PD2024-17 claims that 35 Main Street has historical/associative value because of its building's "90-year continuous occupation and use by the McEnery family." Although this may be true, this has very little to do with the current look of the building itself and its significance to the community 90 years ago. It would be a more useful exercise to review images of the building 90 years ago and compare those to the building that exists now (which Report PD2024-17 did without the visual of the 90-year-old photographs for effect) to determine instead that in light of significant alterations to all elevations of the building in every direction, it would be impossible to preserve the 90-year-old building's historical/associative value without reverting its features back to its original envelope or facade.

The McEnery family is not interested in having the Ontario Heritage Designation on their property. What they are interested in, is the continued renovation, improvement and betterment of this property as they have done over their 90 years of business in the now Town of Erin without additional legislative or political restrictions. The Town of Erin should recognize historically significant business owners and members of this community and appreciate instead the McEnery family's continued ability to contribute to this community and its heritage. It would be more historically significant and detrimental if the McEnery family stopped the improvements to 35 Main Street and/or worse, decided to leave the Town of Erin, rather than designating the property as Ontario Heritage to serve in the preservation of any aspect of the building on 35 Main Street that is left from 90 years ago, particularly as the Town of Erin moves into an era of significant development and expansion and the McEnery family maintains its significant stake in business and the preservation of its family legacy in this town. The simple fact that the Ontario Heritage Designation on this particular property aims to preserve McEnery family history without the cooperation or agreement of the McEnery family should in itself form the basis of this appeal. There is no historical feature or aspect of the building's exterior that is tied to the McEnery's existence in business there.

- B. **The Property's Lack of Contextual Value.** The second criterion relied on in Report PD2024-17 describes 35 Main Street as having contextual value as a result of non-specific features such as "setback, massing, style, [and] decorative details consistent with the character of the historic village of Erin." However, these same features were described in the consideration of other criteria as being insufficient for the purpose of defining the property's cultural or historical significance or in other words, deemed "not a rare, unique, representative, or early example of a style, type or construction method." These same features that are supporting the criterion that gives 35 Main Street its contextual value, are largely obscured by "the construction of later additions" to the building and described under another criterion of the analysis as "modest construction [that] is consistent with the character of the neighbourhood [but] part of the fabric of the street rather than a visual landmark." This attempt at designation of 35 Main Street as Ontario Heritage property necessitates that we reconcile the property's purported "contextual value" with evidence that "35 Main Street is *not* physically linked to its surroundings. There is *no* demonstrated material connection between the property and its surroundings. 35 Main Street is *not* functionally linked to its surroundings. The property's function is *not* dependant on its surroundings. [And,] 35 Main Street is *not* visually linked to its surroundings." The two criteria

pertaining to the contextual heritage value of a property are not mutually exclusive. 35 Main Street cannot be both a “transition property ... help[ing] to define the entrance (south boundary) to the historic commercial core and the residential portion” and also **not** physically, visually or functionally linked to its surroundings.

Report PD2024-17 mentions a similar “transition property” at the opposite end of the historic commercial core, namely Stanley Park. Notably, despite the Park’s presence in the history of Erin and its large lot that borders the pond which contains a historic plaque about the founding of Erin, as well as the location of the Park at the north end of the historic commercial core, this transition property does not meet the criteria for Ontario Heritage Designation and is not deemed in its entirety to be historically significant. The Ontario Heritage Designation with respect to Stanley Park is limited to the entrance gate, or the only structure that holds the value of historical heritage significance. Report PD2024-17 refers to the significance of the property of 35 Main Street in history rather than the building on that property. It is perhaps the historical plaque, the McEnery sign or the cenotaph across the street that are better indicators of structures with historical significance that meet the threshold of Ontario Heritage designation. The building on 35 Main Street simply does not meet the criteria of “contextual value because it is important in defining, maintaining or supporting the character of an area.” If replacing the building at 35 Main Street with an entirely new building that had “setback, massing, style, and decorative details consistent with the character of the historic village of Erin” and the McEnery family continued to do business in it, could satisfy the conditions used to meet this criterion in Report PD2024-17, then the designation of Ontario Heritage on the current building at 35 Main Street does not make sense.

Comparative Analysis & Precedent

Other properties with similar and perhaps even stronger claims to heritage designation have been not designated or limited or re-evaluated based on similar weak applications of criteria. We respectfully request that 35 Main Street be re-assessed with a more balanced consideration of the *Ontario Heritage Act’s* intent, which is to preserve truly significant properties rather than broadly applying designation without clear justification.

On the basis of seven out of nine criteria listed in *Ontario Heritage Act* Regulation 9/06, 35 Main Street was deemed to be overwhelmingly unrepresentative of heritage significance. Council is relying on extremely weak indications of heritage significance under only two of the nine criteria, which analyses are themselves contradicted by findings contrary to historical significance under the other seven criteria. The simple age of a building or structure is not enough for a designation under Ontario Heritage legislation. Similarly, the continued use of a building by a historically significant family is also not enough for a designation under Ontario Heritage legislation. Town Council and the Heritage Committee have simply not met the threshold for heritage designation under the Act with respect to 35 Main Street.

Request for Reconsideration

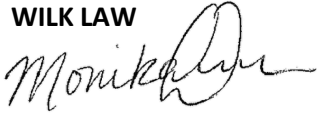
Given the weak application of the criteria, we appeal the designation of 35 Main Street under the *Ontario Heritage Act*. We trust that this analysis has provided some valuable perspective and more than sufficient grounds for appeal, but the McEnerys would be very happy to present additional information or discuss this matter further, as required. It goes without saying that the individuals/families whose historical

significance the Council is trying to preserve should have a valued and recognized opinion on this matter. Please advise of the next steps in the appeal process.

Thank you for your time and consideration. We look forward to your response.

Best Regards,

WILK LAW

A handwritten signature in black ink, appearing to read "Monika Wilk", written in a cursive style.

Monika Wilk

cc. Bryce McEnergy, Brenda McEnergy