

June 12, 2012

To: Chair and Members of Etobicoke York Community Council

Request for Attendance at an Ontario Municipal Board Hearing – Settlement of Appeal of Committee of Adjustment Decision for 19 Oakland Avenue

SUMMARY:

In November 2007, Committee of Adjustment refused a minor variance application (File Number A601/07EYK) to convert the existing one storey industrial building to a place of worship, together with ancillary uses, for 19 Oakland Avenue.

In December 2007, Kenneth Barnswell, from the Rehoboth Apostolic Ark Ministry appealed the Committee of Adjustment refusal decision to the Ontario Municipal Board. The hearing was scheduled for April 10, 2008 and at the request of the applicant, the Board adjourned the hearing.

On March 30, 2010 the Board wrote to Colin Campbell (agent) notifying him that the matter has remained inactive since July 2008. The Board also reminded the agent that in a previous communication which identified that approval of another variance may have been required and that this avenue was to be explored with the City. The Board further advised that it expected a response on or before Tuesday, April 20, 2010 before making a decision on whether or not to dismiss the appeal without further notice or hearing. Subsequently, the Board adjourned the hearing and scheduled a second hearing for September 14, 2011.

At the September hearing Mr. Jaffary, solicitor representing the applicant, requested an adjournment of the hearing until April 2012 to allow time for a new application to be submitted to the Committee of Adjustment, to identify and consider any additional variances to permit the use. He indicated that a revised parking study would be submitted to the Committee in support of the application.

In January 2012, a new and revised minor variance application (File Number A9/12EYK) was filed for the place of worship use with changes to the parking supply and configuration. On February 9, 2012, the Committee of Adjustment refused the new application. The variances to permit the use were numerous and included reduced separation distance to a residential RM zone; reduced separation to other multiple places of worship within 500 metres; a reduction to the minimum front yard, side yard, and rear

yard setbacks for the building; a deficiency in front yard landscaping and the requirement for a hedge/masonry wall; a reduction in the number of on-site parking spaces; and a deficiency in the parking configuration (front yard parking spaces are located 0 m to the front lot line, project beyond the property line into the City property, and are not at right angles to the driveway; and a reduction to the minimum dimension for 5 parallel tandem parking spaces in the side yard which do not have an access driveway).

City Planning Staff recommended that the application be refused.

The Manager, Traffic Planning/Right-of-Way Management, Transportation Services also objected to the application but recommended conditions of approval in the event that the Committee would grant approval of the application.

The applicant has appealed the refusal decision of the Committee of Adjustment and will both the previous and current application are to be consolidated for a Board hearing that has been scheduled for July 12, 2012. The Solicitor for the appellant has recently requested the City's consideration of a proposed settlement in which the minor variance application would be granted to permit the place of worship use for a temporary period not to exceed five years from the date of the Ontario Municipal Board Order.

While City Planning staff does not support the settlement proposal, they have advised that if direction is given to the City Solicitor to appear at the Ontario Municipal Board to settle the appeal consideration should be given to imposing the following additional requirements as conditions to the settlement:

The application be granted for a period not to exceed the earlier of five years, the date on which the place of worship use ceases to occupy the premises or the date in which the owner is more than one month in default of any payment to the City for use of the City boulevard for parking;

ii. The owner submit a parking plan to the satisfaction of the City showing the layout of the parking spaces for the place of worship use and implement the plan with painted lines;

iii. The owner make application for a building permit;

The owner make application, receive approval, and make annual payment for a permit to occupy the City boulevard for parking purposes; and

The owner make any necessary arrangements with Emery Village Business Improvement Area for streetscape improvements at the property or adjacent boulevard and notify the Director of Community Planning Etobicoke York District when such arrangements have been satisfactorily completed.

The appellant's solicitor was made aware of these settlement conditions and agrees with them. I support the settlement for a temporary period subject to conditions.

RECOMMENDATIONS:

1. That City Council authorize the City Solicitor with appropriate staff and appropriate staff to attend the Ontario Municipal Board hearing to grant Minor Variance Application A19/12EYK, on a settlement basis subject to the following conditions:

the application be granted for a period not to exceed the earlier of five years, the date on which the place of worship use ceases to occupy the premises or the date in which the owner is more than one month in default of any payment to the City for use of the City boulevard for parking;

ii. The owner submit a parking plan to the satisfaction of the City showing the layout of the parking spaces for the place of worship use and implement the plan with painted lines;

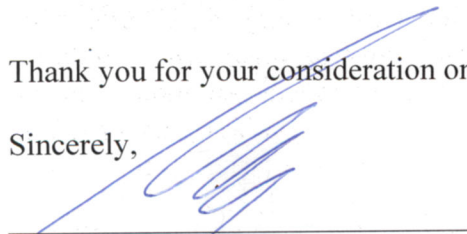
iii. The owner make application for a building permit;

the owner make application, receive approval, and make annual payment for a permit to occupy the City boulevard for parking purposes; and

the owner make any necessary arrangements with Emery Village Business Improvement Area for streetscape improvements at the property or adjacent boulevard and notify the Director of Community Planning Etobicoke York District when such arrangements have been satisfactorily completed.

Thank you for your consideration on this matter.

Sincerely,



Councillor Giorgio Mammoliti
Ward 7, York West

June 13, 2012

Attachment: Notice of Committee of Adjustment, Etobicoke York Panel Decisions dated February 9, 2012 and Friday, November 28, 2007, respecting 19 Oakland Avenue.