

**City Council****Motion Without Notice**

MM18.29	ACTION			Ward:20
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**374 Spadina Avenue - Request for City Solicitor to Attend at the Ontario Municipal Board - by Councillor Joe Cressy, seconded by Councillor Gord Perks**

*\* This Motion has been deemed urgent by the Chair.*

*\* This Motion is not subject to a vote to waive referral. This Motion has been added to the agenda and is before Council for debate.*

**Recommendations**

Councillor Joe Cressy, seconded by Councillor Gord Perks, recommends that:

1. City Council direct the City Solicitor to attempt to negotiate a settlement in the appeal of Committee of Adjustment Application No. A0973/15TEY respecting 374 Spadina Avenue, in order to prohibit the use of the outdoor patio space, and authorize the City Solicitor to settle the matter on behalf of the City in her discretion after consultation with the Ward Councillor and the Director of Community Planning, Toronto and East York District.
2. In the event a settlement cannot be reached, City Council authorize the City Solicitor, together with appropriate Community Planning staff, to attend the Ontario Municipal Board to oppose any proposed use of the outdoor patio space and any related variances in the appeal of Committee of Adjustment Application A0973/15TEY respecting 374 Spadina Avenue, and to retain outside consultants as necessary.

**Summary**

The applicant applied to the Committee of Adjustment (Application No. A0973/15TEY) for variances from Zoning By-law 569-2013 (the "By-law") to permit the construction of a new one-storey coffee shop with a mezzanine (the "Application").

At its hearing on December 2, 2015, the Committee of Adjustment refused the variances requested with respect to building height and rear yard setback (the "Decision"). A copy of the Notice of Decision of the Committee of Adjustment is attached.

The applicant has now appealed the Committee of Adjustment's Decision to the Ontario Municipal Board.

The Application is a concern because the proposal includes a rear yard outdoor patio space on the mezzanine level above the first floor. The rear yard of the property and the outdoor patio

are adjacent to a residential zone. The applicant failed to properly include as part of the Application a variance for the outdoor patio, since the outdoor patio fails to meet the minimum separation distance of 40 metres from the residential zone required by the By-law. As a result of its location, the outdoor patio is a concern because it has the potential to cause undue impacts such as noise, light, and overlook on the surrounding residential properties.

This Motion will direct the City Solicitor to attempt to negotiate a settlement with the applicant on the basis that the use of the outdoor patio space be prohibited. In the event that a settlement cannot be reached, this Motion authorizes the City Solicitor, together with appropriate City staff, to attend the Ontario Municipal Board to oppose the Application, and to retain outside consultants as necessary.

This matter is time sensitive and urgent as the Ontario Municipal Board hearing is scheduled for June 23, 2016, and the City Solicitor requires instructions and direction to attempt to negotiate a settlement with the applicant and attend the hearing, as may be required.

### **Background Information (City Council)**

Member Motion MM18.29

Committee of Adjustment, Toronto and East York District Panel Notice of Decision on application for Minor Variance/Permission for 374 Spadina Avenue  
(<http://www.toronto.ca/legdocs/mmis/2016/mm/bgrd/backgroundfile-92799.pdf>)