



REPORT FOR ACTION WITH CONFIDENTIAL ATTACHMENT

50-60 Marmora Street – Minor Variance Application – Request for Further Direction Regarding Ontario Municipal Board Hearing

Date: November 7, 2017
To: City Council
From: City Solicitor
Wards: Ward 7 - York West

REASON FOR CONFIDENTIAL INFORMATION

This report is about litigation or potential litigation that affects the City or one of its agencies or corporations.

This report contains advice or communications that are subject to solicitor-client privilege.

SUMMARY

The Ontario Municipal Board (the “OMB”) has set a hearing date for three days commencing on November 7, 2017 to hear the minor variance application appeal regarding 50-60 Marmora Street. Further direction from City Council is required prior to proceeding with the hearing.

RECOMMENDATIONS

The City Solicitor recommends that:

1. City Council adopt the recommendations contained in the Confidential Attachment 1 to this report.
2. If the confidential instructions in Confidential Attachment 1 are adopted, City Council authorize the public release of:
 - a. the recommendations contained in the Confidential Attachment 1, with the remainder of the Confidential Attachment 1 to remain confidential at the

discretion of the City Solicitor, as it contains advice subject to solicitor-client privilege; and

b. Confidential Attachment 2.

FINANCIAL IMPACT

Adopting this report will have no financial impact beyond what has already been approved in the current year's budget.

DECISION HISTORY

Marmora Freezing Corporation (also known as Fiera Foods) (the "Owner") is the owner of the property municipally known as 50-60 Marmora Street (the "Subject Property"). The Owner applied for minor variances from the City-wide Zoning By-law 569-2013 and the former North York Zoning By-law 7625 in order to legalize and maintain the existing industrial building on the Subject Property. The existing building had been expanded without a building permit. The Owner is seeking variances to permit an increase to the permitted floor space index from 1 times the area of the lot to 1.18 (City-wide By-law) and 1.46 (North York By-law) times the area of the lot and to permit garbage compactors to be located in the front yard whereas accessory outdoor equipment is not permitted in the front yard.

On November 17, 2016, the Committee of Adjustment, Etobicoke York Panel, refused the minor variance application. The Owner subsequently appealed the Committee's decision to the Ontario Municipal Board, which is known as OMB Case No. PL161293.

The Ontario Municipal Board has scheduled a 3-day hearing commencing on November 7, 2017.

On December 16, 2016, City Council considered Item TE23.32 pertaining to a Motion Without Notice regarding the Ontario Municipal Board appeal. City Council adopted the recommendation of the Motion Without Notice and authorized the City Solicitor and staff to oppose the application at a hearing before the Ontario Municipal Board. For more information, see City Council's resolution regarding TE23.32 at the following link:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2016.MM23.32>

ISSUE BACKGROUND

Further information has been received which has resulted in the need for directions from City Council prior to proceeding with the November 7, 2017 Ontario Municipal Board hearing.

COMMENTS

This report is about litigation before the Ontario Municipal Board and contains advice or communications that are subject to solicitor-client privilege. Attachment 1 to this report contains confidential information and should be considered by Council in camera. Attachment 2 to this report contains confidential correspondence and should be considered by Council in camera.

CONTACT

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SIGNATURE

Wendy Walberg
City Solicitor

ATTACHMENTS

Confidential Attachment 1 - Confidential Recommendations and Confidential Information.

Confidential Attachment 2 - Confidential Information