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Attention: Committee of Adjustment

To the Committee of Adjustment:

Re: A-10/20 - 739 Woolwich Street

We are the lawyers for the Canadian Mental Health Association of Waterloo Wellington (the "CMHA WW").

Background

As the Committee may recall, our client attended, and opposed, the subject minor variance at the March 12, 2020, Committee of Adjustment meeting.

Our client has, since November 2018 (for the past 18 months), been planning to locate a much-needed youth mental health and additions clinic at the abutting property (735/737 Woolwich Street), which will serve children, teens and young people up to 24 years of age.

As you will note, this project began well before the proposed minor variance application was submitted.

At this point, our client anticipates receiving site plan approval from the City in the next couple of weeks, has already applied for the necessary building permits, and anticipates starting construction shortly thereafter. The commencement of the project is imminent.

Given the amount of work that has been done to date, our client remains seriously concerned in relation to the above-noted minor variance application.

The youth mental health and additions clinic site was specifically chosen by the CMHA WW as it needs to be in close proximity to its clients; to be easily accessible in order to maximize its beneficial impact on its clients and the broader community.

Respectfully, there are many commercial properties in the City that could accommodate, and indeed welcome, a retail cannabis store, but very few at which one could viably locate a youth mental health and additions clinic.

Enclosed please find several letters in opposition to the proposed minor variance application.

Application Does Not Meet the Four Part Test for a Minor Variance

It is clear that the application in question does not meet the four (4) part test for a minor variance in that it is not: 1) minor in nature; 2) desirable for the appropriate development or use of the land; or, 3) in keeping with the purpose or intent of the Zoning By-law.

Locating a retail cannabis store next to a youth mental health and additions clinic does not create a compatible mix of uses. Some of the CMHA WW's clients may be living with substance misuse issues while others are old enough to buy cannabis legally. Our client does not want their recovery or treatment to be negatively impacted by the proximity of the proposed cannabis retail store.

While children under 18 are not legally allowed to enter cannabis stores, having one next door to where youth may be receiving treatment for mental health and substance use behaviours creates a potential for influence. For those 19 over, the potential for influence is greater given they can legally buy cannabis.

As the Committee can appreciate, our client is trying to assist a very vulnerable and marginalized sector of society, one that is notoriously challenging to reach, and its objectives will be seriously undermined by the new land use being proposed at the subject property.

Our client is also mindful of evidence which suggests that cannabis use can be harmful to a brain that is still developing, which is especially concerning given the age range of the CMHA WW's clients at that location. Evidence exists that shows:

- Youth are at an increased risk as the brain is exceptionally susceptible to adverse effects during this stage of development.
- Youth are also at a disproportionate risk for addiction, developing a cannabis use disorder, depression, anxiety and psychosis.
- Some studies reveal correlations between frequent cannabis use particularly by youth and development of psychotic disorders.
- The risk of developing a substance use problem is doubled in people with mental illness – the clients the CMHA WW may be serving – compared to the general population.

In addition to the foregoing, the subject property (739 Woolwich St.) is zoned SC.1-6, pursuant to section 6.4.3.1.6 of the City's Zoning By-law. That specialized zone only permits retail uses as follows: "Retail Sales of: pool/patio supplies, drapery". It does not permit general retail uses.

It is very clear that the range of permitted uses for the subject property was scaled down from what the SC.1 zone allows and, further, that the "retail" permissions were very specific to only permit "pool/patio supplies, drapery". The range of permissible retail uses was deliberately circumscribed.



As a result, if a cannabis retail store is to be permitted on the subject property, it should be done by way of a zone change, not a minor variance. In the writer's experience, the addition of permitted uses are, in other municipalities, typically done by way of a zone change, not a minor variance. We would respectfully request that the Committee refuse the above-noted application, and suggest that the applicant proceed by way of zone change, especially given the present circumstances and considerations. A zone change would necessitate a more fulsome process and require Council approval.

Finally, we would note that in Schedule "LL" of City of Guelph By-law No. (2013)-19529, the City will object to any cannabis retail store applications: "...if the issuance of a proposed cannabis retail store authorization is not in the public interest having regard to the needs and wishes of the residents of the City of Guelph because the proposed location of the proposed store is within 150 metres of an addiction centre...", which is the case at present.

As a result of the foregoing, the minor variance application does not meet the four part test for a minor variance.

Request for Refusal or Deferral

If the Committee is not prepared to refuse the above-noted application, for the reasons outlined above, we would at least request that this matter be deferred so that all voices can be heard.

The Committee of Adjustment meeting on June 11th is being held remotely and in the midst of a global pandemic. Many of the CHMA WW's clients do not have the phone or computer access to individually participate in the June 11th meeting and cannot participate as a group, given the pandemic.

In order to ensure procedural fairness in relation to the above-noted application, we would respectfully request that a deferral be granted so that we can ensure fulsome, public participation, especially from those that would be the most directly impacted by the Committee's decision. The CHMA WW's clients deserve an opportunity to be heard.

Conclusion

We look forward to being a delegation at the Committee's June 11th meeting and would be pleased to answer any questions you may have at that time.

Finally, we respectfully request to be notified by the Committee and/or the City in relation to any decisions or developments in relation to the above-noted minor variance application.

Thank you.

Sincerely,

MILLER THOMSON LLP

Per: 

Eric Davis



Enclosures

- c. Helen Fishburn, Executive Director, CMHA Waterloo Wellington - via email: hfishburn@cmhaww.ca

