

COMMITTEE OF ADJUSTMENT COMMENTS FROM STAFF, PUBLIC & AGENCIES

APPLICATION NUMBER: A-50/18
LOCATION: 54 Cardigan Street
DATE AND TIME OF HEARING: June 28, 2018 at 4:00 p.m.
OWNER: 2389500 Ontario Inc.
AGENT: N/A
OFFICIAL PLAN DESIGNATION: Mixed Use 2
ZONING: Specialized Industrial (B.4-15) Zone of By-law (1995)-14864, and Downtown 2 (D.2) Zone of Downtown Zoning By-law (2017)-20187

REQUEST: The applicant is seeking relief from the By-law requirements to permit a medical clinic on the subject property.

BY-LAW REQUIREMENTS: The By-law permits wicker and garden centre/offices as the only permitted uses on the subject property.

STAFF RECOMMENDATION: Approval with condition

CONDITIONS RECOMMENDED:

PLANNING SERVICES

1. That prior to the issuance of a building permit and within 30 days of the date the Committee's decision is confirmed to be final and in effect, the applicant shall demonstrate compliance with Section 4.13.4.2 of the Zoning By-law (By-law No. (1995)-14864, as amended) or apply for a minor variance to ensure the off-street parking requirements for a medical clinic are met.

COMMENTS

PLANNING SERVICES:

The subject property is designated "Mixed Use 2" in the Downtown Secondary Plan. Lands designated "Mixed Use 2" are areas of the downtown that were historically mostly residential, with a mixture of housing styles, but have evolved over time to accommodate a range of uses, many in partially or fully converted houses. Offices, including medically related uses are permitted in the "Mixed Use 2" land use designation. As the applicant is proposing to establish a medical clinic in an existing building with no exterior physical changes, the requested variance is therefore considered to meet the general intent and purpose of the Downtown Secondary Plan.

The property is subject to both the (1995)-14864 Zoning By-law and also the (2017)-20187 Downtown Zoning By-law. The Downtown Zoning By-law was approved by Council on July 24, 2017 and is currently under appeal in its entirety at the Local Planning Appeal Tribunal (LPAT). Until the appeal to the Downtown Zoning By-law is resolved, the property is subject to both Zoning By-laws.

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The subject property is zoned "Specialized Industrial" (B.4-15) according to Zoning By-law (1995)-14864, as amended. The B.4-15 Zone permits a Wicker and Garden Centre/Office. The subject property is zoned "Downtown 2" (D.2) according to the Downtown Zoning By-law (2017)-20187. The D.2 zone permits medical clinics. The applicant is requesting a variance to Section 7.3.4.15.1 of Zoning By-law (1995)-14864, as amended to permit a medical clinic in the existing one (1) storey building. A variance to the Downtown Zoning By-law is **not** required as the D.2 zone would permit a medical clinic.

The intent of the 1995 Zoning By-law limiting uses on the subject property to wicker and a garden centre/office was to recognize historic light industrial uses occurring in the building at the time. As the surrounding neighbourhood began to change to more residential and small scale commercial, the industrial uses have become obsolete and have ceased to exist. The Official Plan and Downtown Secondary Plan are directing uses to more residential and commercial in this area, primarily within existing buildings.

Staff are satisfied that the requested variance meets the general intent and purpose of the Zoning By-law. The variance is considered to be desirable and appropriate for the development of the lands and is considered to be minor in nature.

Staff recommend approval of the application, subject to the above noted condition.

ENGINEERING SERVICES:

Engineering has no concerns with the request of seeking relief from the By-law requirements to permit a medical clinic as an additional permitted use on the subject site. We agree with recommendations made by Planning and Zoning staff.

BUILDING SERVICES:

This property is located in the Specialized Industrial (B.4-15) of Zoning By-law (1995)-114864, as amended, and the Downtown 2 (D.2) Zone of the (Downtown) Zoning By-law (2017)-20187. The applicant is seeking relief from the By-law to permit a medical clinic, which is permitted in Bylaw (2017)-20187, but not permitted in Zoning Bylaw (1995)-14864, as amended. Building services agrees the recommendation made by Planning Staff.

REALTY SERVICES:

There is an outstanding encroachment agreement registered on title December 18th, 2008 as Instrument No. WC233257. The owner is asked to kindly contact Realty Services to review the encroachment agreement (copy attached). The encroachment agreement is required to be assigned to the current registered owner, 2389500 Ontario Inc. (Guelph Medical Imaging) and permitted pursuant to paragraph 17 of the agreement. A certificate of insurance will be required pursuant to paragraph 11. The agreement is subject to an annual fee, pursuant to paragraph 3. If the encroachments no longer exist, a release of the agreement will be arranged.

REPORT COMPILED BY: T. Di Lullo, Secretary-Treasurer

COMMENTS FROM THE PUBLIC RECEIVED: Yes (see attached)

Properties

PIN 71320 - 0089 LT
Description Lots 2, 3 & 4, Plan 144 ; GUELPH
Address 00054 CARDIGAN STREET
GUELPH

Consideration

Consideration \$ 0.00

Applicant(s)

The notice is based on or affects a valid and existing estate, right, interest or equity in land

Name THE CORPORATION OF THE CITY OF GUELPH
Address for Service 59 Carden Street
GUELPH, ON N1H 3A1

This document is not authorized under Power of Attorney by this party.

This document is being authorized by a municipal corporation KAREN FARBRIDGE - MAYOR and LOIS A. GILES - CITY CLERK.

Statements

This notice is pursuant to Section 71 of the Land Titles Act.

This notice is for an indeterminate period

Schedule: See Schedules

Signed By

Donna Marie Couto 59 Carden St. acting for Signed 2008 12 17
Guelph Applicant(s)
N1H 3A1
Tel 5198375637
Fax 5198220705

Submitted By

THE CITY OF GUELPH 59 Carden St. 2008 12 17
Guelph
N1H 3A1
Tel 5198375637
Fax 5198220705

Fees/Taxes/Payment

Statutory Registration Fee \$60.00
Total Paid \$60.00

ENCROACHMENT AGREEMENT

AGREEMENT BETWEEN:

THE CORPORATION OF THE CITY OF GUELPH

hereinafter called the "City"

of the FIRST PART

-and-

1389486 ONTARIO INC.

hereinafter called the "Licensee"

of the SECOND PART

WHEREAS the City is the registered owner of the lands municipally known as Norwich Street described as Norwich Street, Plan 8, lying between Cardigan Street and Woolwich Street identified as PIN 71320-0002 and Cardigan Street described as Cardigan Street, Plan 8, identified as PIN 71319-0397 (the "City's Lands");

AND WHEREAS the Licensee, being the registered owner of the lands municipally known as, 54 Cardigan Street, and described as Lots 2, 3 and 4, Plan 144, City of Guelph, identified as PIN 71320-0089 (the "Licensee's Lands") has requested the use of part of the City's Lands for the purpose of constructing and maintaining a concrete retaining wall and railing, and landscaping consisting of three sugar maples, one red maple and 11 false spiraea (the "Encroachment");

AND WHEREAS the City is agreeable to allowing the Licensee to use the City's Lands for said purposes, subject to certain terms and conditions;

NOW THEREFORE in consideration of the following terms, the City agrees to allow the Licensee to use the City's Lands and the parties covenant and agree as follows:

1. The City's Lands subject to this Agreement are described as Norwich Street, described as Norwich Street, Plan 8, lying between Cardigan Street and Woolwich Street identified as PIN 71320-0002 and Cardigan Street described as Cardigan Street, Plan 8, identified as PIN 71319-0397 and as shown on Schedule "A" to this Agreement (the "Encroachment Lands").
2. This Agreement shall commence upon full execution of this Agreement and end when terminated by either party in accordance with this Agreement (the "Term").
3. The Licensee shall pay to the City, without prior invoice therefore, an annual fee of \$300.00 + G.S.T., in advance, for the use of the Encroachment Lands. The fee for the first year of the Term shall be deposited with the City upon execution of this Agreement by the Licensee and subsequent annual payments shall be made by the Licensee on or prior to the anniversary date of this Agreement.
4. The Encroachment shall be used for the purposes set out herein and for no other purposes.
5. The Encroachment shall be maintained by the Licensee, at the Licensee's cost, in a sound, neat and safe condition, to the satisfaction of the City.
6. The Licensee shall not erect any new buildings, structures, additions, replacements or the like, or undertake any work or alterations not expressly permitted by this Agreement on the Encroachment Lands without the prior written consent of the City, which consent may be withheld for any reason.
7. The City and Licensee consent to the registration of this Agreement on the title to the Licensee's Lands and the Licensee shall execute any or all such documents for such purposes. Further, the Licensee shall bear the cost of such registration.
8. The Licensee acknowledges and agrees that this Agreement does not in any way whatsoever

diminish the rights of the City, or any gas, telephone, cable, electric light or other public utility company, their respective officers, servants, workers, employees, agents and contractors, to enter at all times upon the said Encroachment Lands for the purpose of constructing, repairing, maintaining, replacing or removing any roads, curbs, sidewalks, boulevards, sewers, mains, culverts, drains, water pipes, gas pipes, poles, wires or any other underground or above ground services, installations, or appurtenances. The Licensee shall not be entitled to any damages or compensation by reason of the exercise of the City's or utility company's rights contained in this clause and the Licensee at the Licensee's expense shall carry out such alteration or removal of the encroachment as the City may direct.

9. This Agreement may be terminated at any time by either party upon ten (10) days written notice of termination. The Licensee agrees to remove the Encroachment and restore the Encroachment Lands as directed by the City within thirty (30) days of such termination or expiry of this Agreement if so requested by the City. The Licensee hereby agrees that it shall not make any claims or demands for any costs or damages as a result of such termination.
10. The Licensee covenants to pay every tax, realty tax, licence fee, rate, duty and assessment of every kind with respect to the use or occupancy of the Encroachment Lands by the Licensee
11. The Licensee shall obtain and maintain throughout the Term a comprehensive insurance policy with a minimum general liability coverage of TWO MILLION (\$2,000,000) DOLLARS per occurrence to protect the Licensee and the City, and those for whom the City is in law responsible, from any and all claims for damages, personal injury including death, and for claims from property damage which may arise from the Licensee's use of or in relation to the Encroachment Lands or any act or omission of the Licensee's or the Licensee's contractors, agents, employees or invitees and such coverage shall include all costs, charges and expenses arising therefrom. The insurance policy shall be in the name of Licensee and shall name the City as an additional insured thereunder. The policy shall provide that it cannot be cancelled, lapsed or materially changed without at least thirty (30) days notice to the City by registered mail. Evidence of insurance satisfactory to the City shall be provided prior to the execution of this Agreement by the City.
12. The Licensee agrees to indemnify and save harmless in full the City, and those for whom the City is in law responsible, of and from all liabilities, fines, damages, suits, claims, demands, actions, and cost for such actions for which the City, and those for whom the City is in law responsible, may become liable or suffer by reason as a result of the use of the Encroachment Lands by the Licensee. Without restricting the generality of the foregoing, the Licensee shall indemnify and save harmless in full the City and those for whom the City is in law responsible, of and from all damages to persons or properties as a direct or indirect result of the use of the Encroachment Lands by the Licensee. This provision shall apply and survive the termination of this Agreement with respect to any act or omission which occurred during the Term of this Agreement.
13. The Licensee agrees not to make any claims, demands, and/or commence any actions, suits, proceedings or maintain the same for any and all costs, damages, losses, compensations, injurious affection arising either directly or indirectly from this Agreement, as a result of the termination of this Agreement, or resulting from the Licensee's activities.
14. The Licensee covenants to fully comply with any order or direction of any lawful authority, including the municipal, provincial, or federal governments or their respective agents. Nothing in the Agreement shall be construed to mean that the City by virtue of this Agreement has assumed the responsibility of such compliance or of any compliance with any municipal by-laws.
15. The Licensee covenants that at all times the use made of the Encroachment Lands and the Encroachment shall be in conformity with all of the requirements of the zoning by-laws of the City and any other municipal or governmental statutes or regulations which may affect the Encroachment Lands or the Licensee's use thereof. The Licensee agrees to maintain current a City business license, if applicable, during the term of this Agreement. The Licensee shall indemnify and save the City harmless against any and all liabilities, claims, damages, interest, penalties, fines, monetary sanctions, losses, costs and expenses whatsoever (including, without limitation, counsel and solicitor's fees on a substantial indemnity basis,

reasonable costs of professional advisors, consultants and experts) arising out of non-compliance with or violation of any of the said laws and regulations or from any liability for costs for damage or injury to any person or property resulting therefrom.

16. The Licensee shall not commit or suffer any waste or injury to the Encroachment Lands or any part thereof and shall not use or occupy or permit to be used or occupied the Encroachment Lands or any part thereof so as to constitute a nuisance or for any illegal or unlawful purpose.
17. This Agreement may be assigned by the Licensee.
18. Any notice under this Agreement is sufficiently given if delivered personally or if sent by ordinary prepaid mail, prepaid courier, or by electronic facsimile machine address as follows:

to the City at:

City of Guelph, Corporate Services
59 Carden Street, Guelph, ON, N1H 3A1
Attention: Manager of Realty Services
Telephone: 519-822-1260 Ext. 2279
Facsimile: 519-822-0705

To the Licensee at:

1389486 Ontario Inc.
54 Cardigan Street
GUELPH, ON N1H 3Z6
Attention: Geoff Corlett

or at such other address or addresses as the City and Licensee may designate from time to time. Any such notice shall be conclusively deemed to have been given and received upon the same day if personally delivered or sent by facsimile or, if mailed, three (3) business days after the same is mailed. Any party may, at any time by notice given in writing to the other party, change the address for service of notice on it.

19. No waiver by any party of any breach by any other party of any of its covenants, agreements or obligations in this License shall be or be deemed to be waiver of any subsequent breach thereof or the breach of any other covenants, agreements or obligations, nor shall any forbearance by any party to seek a remedy for any breach by any other party be a waiver by the party so forbearing of its rights and remedies with respect to such breach or any subsequent breach. The subsequent acceptance of fees by the City shall not be deemed a waiver of any preceding breach by the Licensee of any term, covenant or condition regardless of the City's knowledge of such preceding breach at the time of the acceptance of such fee.
20. This Agreement constitutes the entire agreement and understanding of the parties and supersedes any and all prior understandings, discussions, negotiations, commitments, representations, warranties, and agreements, written or oral, express or implied between them.
21. In addition to those provisions which are expressly stated to survive the termination or expiration of this Agreement, the provisions of this Agreement that are by their nature intended to survive termination or expiration of this Agreement shall continue in full force and effect subsequent to and notwithstanding termination or expiration until or unless they are satisfied.

22. This Agreement shall be read with such changes of gender and number as the context requires and shall be binding upon the parties hereto, their respective heirs, executors, administrators, successors and assigns.

DATED at Guelph this 12 day of December, 2008.

SIGNED, SEALED
AND DELIVERED

) 1389486 ONTARIO INC.



Witness

) Jori Pedersen
Name: Jori Pedersen
Title: Assistant Secretary

)
) Name:
) Title:

I/We have authority to bind the Corporation.

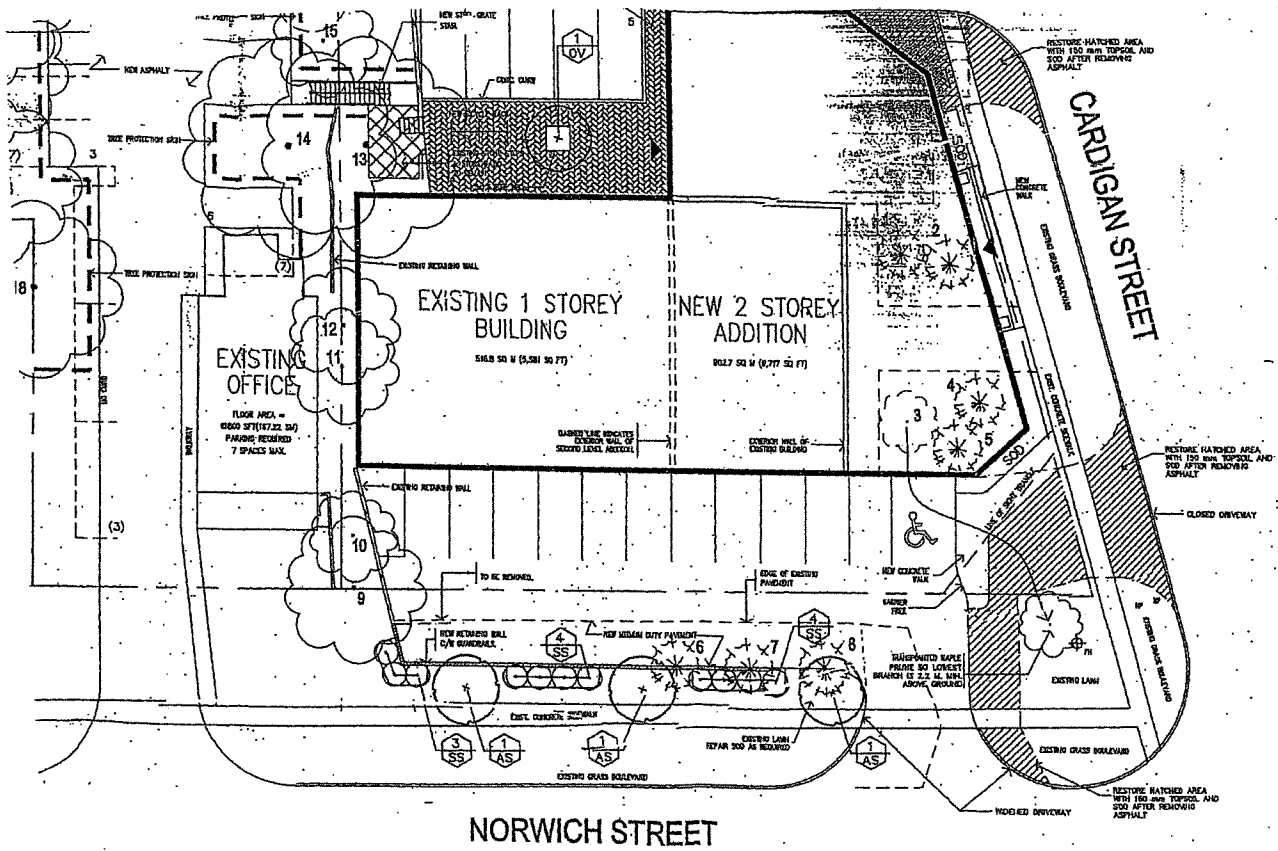
IN WITNESS WHEREOF The Corporation of the City of Guelph has, on the 17TH day of December, 2008 affixed its name and corporate seal under the hands of its signing officers in that behalf.

) THE CORPORATION OF THE CITY OF GUELPH

) Karen Farbridge
Name: Karen Farbridge
Title: Mayor

) Lois A. Giles
Name: Lois A. Giles
Title: City Clerk

File No.: 2007031.000
Date: December 12, 2008



Schedule "A"

Trista Di Lullo

From: Christopher Campbell
Sent: June-20-18 9:45 AM
To: Committee of Adjustment
Subject: Application A-50/18 54 Cardigan St.,

To the Members of the Committee of Adjustment,

I am writing to you to express concern about the applicant's request to seek relief from the By-law requirements to permit a medical clinic at 54 cardigan Street.

The concern is what does medical clinic mean? If the building is rezoned for diagnostic purposes this it not an issue. If medical clinic encompasses a methadone clinic or safe injection or drug overdose recovery site this is indeed cause for concern.

Given the building's proximity to Wyndham House (18 Norwich St., East), the River and trail, Goldie Mill Park, and the Youth Music Centre, not to mention the areas residences a medical clinic must be well defined to the neighbourhood prior to granting the relief to the By-law.

Thank you for your time and consideration on this matter.

Christopher Campbell
Neighbourhood Resident

MAXWELL LAW

Gordon P. Maxwell Barrister and Solicitor

Delivered by Fax: 519 763 1269

June 21, 2018

City of Guelph
Committee of Adjustment
1 Carden Street
Guelph, ON N1H 3A1

RECEIVED
JUN 21 2018

CITY CLERK'S OFFICE

Attention: Trista DiLullo

Dear Ms. DiLullo:

**Re: 2389500 Ontario Inc.
Application A50-18
54 Cardigan Street, Medical Clinic**

Please be advised that I am a tenant at 20 Norwich Street East, Guelph, Ontario, just up the hill from the subject property. I am also writing this letter on behalf of my wife, Sandra Dayus Maxwell, who is the owner of 20 Norwich Street East, Guelph, Ontario.

We are both very concerned about the subject application. Given the location of the subject property, in relation to the Group Home adjoining our property, it would be a terrible thing if the requested variance would allow for the outpatient treatment of substance abusers.

Given the migration of the Group Home to more of a "treatment centre" for drug abusers, prevalence of drug trafficking and vandalism in the area has substantially increased and appears to be out of control. In our opinion, any potential for increasing the trafficking and vandalism would not be in the best interest of the area residents and businesses.

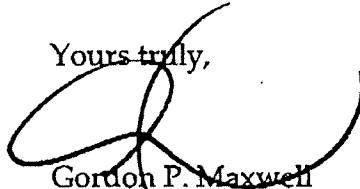
In my review of the definition of medical clinic, there is a possibility if the variance is allowed that the property could be used as a methadone clinic, safe drug injection site or needle exchange. In our opinion this would exasperate on an already extremely serious hazardous condition within the area.

20 Norwich Street East, Guelph, Ontario N1H 2G6

Outpatient treatment needs to be closely regulated and guarded so that area residents and businesses are not put at risk. The degree of regulations and supervision necessary may not be possible.

The City owned Group Home adjoining our property provides a relevant example of the City's inability to control this problem.

Yours truly,



Gordon P. Maxwell

GPM/sj

Encls.

20 Norwich Street East, Guelph, Ontario N1H 2G6

Trista Di Lullo

From: Adam Sneyd
Sent: June-21-18 11:18 AM
To: Committee of Adjustment
Cc: James Gordon
Subject: 54 Cardigan Street medical clinic concerns

Hi there -

As a long-standing owner of a condominium unit in 60 Cardigan Street, the heritage-designated property adjacent to 54 Cardigan, I have some concerns regarding the possible zoning adjustment.

In particular, traffic generation. Cardigan Street is already overloaded with traffic from the Guelph Youth Music Centre, and from the two apartment towers up the road at 27 and 33 Cardigan.

Before any new zoning is agreed, traffic calming should be introduced. In particular, the Dufferin Street speed humps should be continued along Cardigan Street in front of Goldie Mill to through to the London Street corner. The city does not need a detailed or expensive traffic study - all that is needed is for somebody to observe the speed of traffic currently, and take steps to remediate it.

Linamar employees going on/coming off shift from the 27/33 apartments rip up our street at 80km/hour on an almost nightly basis.

A dog was even struck by a car in the summer of 2017 during the daily rush to drop kids off for music lessons.

And I could go on. This is a residential neighbourhood, and this new potential medical clinic will absolutely contribute to our ongoing traffic problem.

More cars moving at unsafe speeds are bad news for the residents of 60 Cardigan, and the neighbouring association.

Without traffic calming, I fear that this adjustment could cause a serious traffic accident in our residential neighbourhood.

I raised this issue with my councilor when he was first elected, and have cc'd him here.

with my best wishes,
Adam Sneyd

Attention Trista Di Lullo
Re: 2389500 Ontario Inc.
Application A50-18
54 Cardigan Street, Medical Clinic

I am a resident/owner at 64A Cardigan Street and have received the Request for Withdrawal or Deferral of Applications for 54 Cardigan Street.

Initially, I was pleased to see that a medical clinic might be locating to this location. It seems to be a reasonable use of this space as long as this re-classification does not allow, presently or in the future, for the space to be used for the purpose of:

- Safe injection site
- Methadone clinic
- Needle exchange

This neighbourhood has already experienced significant disturbances from the use of drugs and its associated crimes including theft, vandalism and harassment of residents. A clinic that supports these activities within the neighbourhood should be significantly discouraged.

Please consider this concern and take sufficient action to ensure that this location will not have the opportunity to convert to the above activities in the future.

Regards,

Matthew Phillips
64A Cardigan Street
Guelph, Ontario

