

August 26, 2015

**VIA COURIER**

Committee of Adjustment  
North York District Office  
North York Civic Centre  
5100 Yonge Street  
North York, Ontario M2N 5V7

**RECEIVED**

AUG 26 2015

Toronto Building  
North York District

Dear Sirs/Mesdames:

**RE: 1912-1914 Avenue Road – Minor Variance  
Committee of Adjustment File No. A0596/15NY  
\*\* NOTICE OF APPEAL \*\*  
Planning Act, Section 45(12)**

We are the lawyers for Jame Financial Corporation & Bustos Holdings Inc., the owners of 1912-1914 Avenue Road with respect to the above-mentioned minor variance application (the "**Applicant**").

Please be advised that, on behalf of the Applicant, we hereby appeal the above-noted application to the Ontario Municipal Board pursuant to Section 45(12) of the *Planning Act*, R.S.O. 1990, c.P.13, as amended (the "**Planning Act**"). The reasons for appeal are set out below.

### **Subject Property & Planning Context**

The property is located at the northwest corner of Avenue Road and Brooke Avenue in the former City of North York (the "**Subject Property**"). The Subject Property has a frontage of 18.8 metres and depth of 36.8 metres. The total site area is 680 square metres. The Subject Property is designated "Avenues" and "Mixed Use Areas" in the Toronto Official Plan and is zoned "Mixed Use Commercial" (C4) in the North York Zoning By-law 7625 (the "**NY Zoning By-law**") and "Commercial Residential" (CR) in the Comprehensive Toronto Zoning By-law 569-2013 (the "**New Zoning By-law**").

The Subject Property is part of a generally continuous stretch of mixed use buildings along Avenue Road extending from Joicey Boulevard to Lawrence Avenue West, and is located within the lands that were considered in the Avenue Road Avenue Study, providing a long-term plan for the area. Notably, the Avenue Road Avenue Study recommended that the zoning by-law and Official Plan be amended to allow an increase in permitted height to five-storeys and increased density to 3 times the lot area, along the length of Avenue Road, with heights of up to seven storeys and 22.5m permitted on certain sites.

Seven (7) variances are required to the NY Zoning By-law and nine (9) variances are required to the New Zoning By-law to accommodate the proposed redevelopment of the Subject Property with a five-storey commercial building. The proposed development is supported by the Provincial Policy Statement 2014, the Growth Plan for the Greater Golden Horseshoe and the City of Toronto Official Plan, and is aligned with the vision recommended in the Avenue Road Avenue Study. The proposed development represents appropriate in-fill development in the neighbourhood and satisfies the tests under the Planning Act for minor variances.

### **Proposed Development & Variances**

The proposed development comprises a five-storey (19.6 metre) commercial building with a total gross floor area under the New Zoning By-law of approximately 1,739 square metres, consisting of 1,308 square metres of office space and 431 square metres of retail uses on the ground floor fronting onto Avenue Road and Brooke Avenue (the "**Proposed Development**").<sup>1</sup> In addition to the minor variance application now being appealed, the Applicant has also submitted a Site Plan Application to the City of Toronto for the Proposed Development (File #14 242937 NNY 16 SA) (the "**Site Plan Application**").

### **Built Form**

The building massing has been designed to appropriately respond to the location by conforming to a 45 degree angular plane measured from the rear property line and the centre line of Avenue Road, in accordance with the recommendations of the Avenue Road Avenue Study and the implementing zoning by-law for Avenue Road. The resulting building massing will incorporate significant setbacks at the rear and along Avenue Road, which will be visually interesting and will create a smaller floorplate as the building rises. The design will also feature a 2.82 metre building setback above the second storey to respond to the two-storey existing context along Avenue Road.

Variances are required for the height of the building in metres as well as the height of the mechanical penthouse, for total gross floor area and the gross floor area of commercial uses, for the setback of the building from the rear lot line, and for the setback off the building from the Brooke Avenue frontage.

### **Transportation**

Under the NY Zoning By-law, the minimum parking requirement for the proposed commercial uses is 46 spaces. Under the New Zoning By-law, the minimum parking requirement is 14 spaces. No parking spaces are being proposed on site for the approximately 1,739 square metres of proposed commercial uses. We note that the existing commercial buildings on the Subject Property, with a gross floor area of approximately 940 square metres, do not provide any parking. A Transportation Assessment Study performed by LEA Consulting Ltd. (the "**Transportation Study**") indicates that parking demand can be met through off-site public

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<sup>1</sup> Under the NY Zoning By-law, the gross floor area of the Proposed Development is approximately 2,504 square metres, consisting of 1,488 square metres of office space, 431 square metres of retail uses on the ground floor, and 584 square metres of basement and ancillary space.

parking in two Green P parking lots located within 150 metres of the Subject Property and on-street parking within 300 meters. The Subject Property is well served by infrastructure which encourages the utilization of active transportation and public transportation as an alternative to single occupant vehicles.

Under the NY Zoning By-law, two loading spaces are required for the Proposed Development. Under the New Zoning By-law, the Subject Property is exempt from providing loading spaces. No loading spaces are being proposed on site. The Transportation Study has confirmed that the loading activity can be accommodated along an easement located adjacent to the Subject Property which currently serves the Subject Property as well as an adjacent property.

#### Miscellaneous

In addition to the variances described above, variances are required with respect to the fencing and landscaping of the property along the rear property line. A technical variance related to storage of waste and recyclable materials is also required, as is a variance for sun shades on the Avenue Road façade of the Proposed Development.

#### Reasons for Appeal

After receiving initial comments on the Site Plan Application, the Applicant submitted its application for minor variances to the Committee of Adjustment (on June 25, 2015). This application was reviewed and commented on by various City departments.

City of Toronto Transportation Services indicated in its July 29, 2015 report that it has no objection to the loading space variance, and no objection to the proposed parking variance subject to compliance with the City's payment in-lieu-of-parking policies. In addition, Community Planning submitted a generally positive Staff Report dated July 31, 2015, to the Committee of Adjustment.

Notwithstanding the position of City staff, and despite the Applicant's collaboration with City staff to make revisions to the Proposed Development through the Site Plan process, the application was refused by the Committee of Adjustment on August 6, 2015.

#### Organization of Hearing

As noted on the attached form, we propose that two (2) days of hearing time are required for this appeal. We intend to call a land use planner and a transportation witness (if necessary) to provide expert evidence.

#### Appeal Materials

Please find enclosed the following materials in respect of these appeals:

1. A completed copy of the Ontario Municipal Board's Appellant Form A1; and
2. A cheque in the amount of \$125 payable to the Minister of Finance, representing the Board's fee for the appeal of the Minor Variance Application.

Should you require any further information, documentation, or any other thing to constitute these appeals to the Ontario Municipal Board, please contact the undersigned or, in his absence, Christie Gibson (cgibson@overlandllp.ca) at (416) 730-1529.

Yours truly,  
**Overland LLP**



Per: Christopher J. Tanzola  
Partner

Encl.

c. Client