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May 14, 2018

Barker Wilson
Barristers & Solicitors
31 Foster Street
Perth, Ontario
K7H 1R8

Attention: S. Craig Halpenny

Dear Sir:

RE: Blueberry Creek Forest School
Your File No. M1939-10A
Our File No. 29235-3

Based on your letter of May 3, 2018 it appears that your client is not prepared to provide a constructive proposal and instead wishes to continue to argue that its use is not prohibited.

My letter of April 26 was clear that the Township's position is that the use as a private school is non-compliant with zoning. The Township and its land use planners considered the "community service" use in arriving at this position and nothing has changed.

Your client is a commercial entity; they operate a private school and charge students for providing that service. Whether your client turns a profit or not, in and of itself, is not germane to whether the use conforms to the By-law. The By-law clearly states that it applies to service clubs or charitable organizations – which do not describe your client. This should be the end of the assessment; your client is not a service organization. Even if we accepted that they were a service organization, the definition goes on to describe the use as, "promoting ... educational ... objectives". You describe your client's activities as, "an outdoor education delivery model". The school is not "promoting" education, it is delivering education, as a private school.

CUNNINGHAM, SWAN, CARTY, LITTLE & BONHAM LLP

The common meaning of "promote" is to advance or support, not to deliver the actual service. It is clear that your client does not "promote" education, they deliver that service, for a fee. The *Education Act* makes this distinction in various sections and distinguishes "promote" as an indirect advancement of educational purposes, not the direct delivery of education.

Equally relevant is the fact that a private school is not a permitted use in the Commercial Zone. On this basis alone the use is not permitted.

I have confirmed this interpretation with the Township's land use planners and agree with their assessment that a private school is not a "community service".

Your letter, delivered after the 30 day deadline to provide a proposal to legalize the use, serves no purpose other than delay.

I will now act on my instructions from Council to commence an application in the Superior Court to obtain an order prohibiting any use of the property that does not comply with zoning.

The Township had hoped that this would not be necessary and that your clients would have taken advantage of the 30 days to consider their options and retain a land use planner to assess what type of use of the property could be compliant with the zoning, or to commence an application for re-zoning. It is unfortunate that your clients appear unwilling to work with the Township to determine if a resolution is possible.

Sincerely,

Cunningham, Swan, Carty, Little & Bonham LLP



Tony E. Fleming, C.S.

TEF:kj