

Here is the excellent press coverage of the OMB final arguments by Deidre Healey of the Guelph Mercury. (You really should subscribe; coverage has been really good, lately.)

Wal-Mart fight far from over

Religious freedom case attacked; opponents at OMB ponder appeal

DEIRDRE HEALEY

GUELPH (Oct 20, 2004)

While a freedom of religion argument against the construction of a Wal-Mart was attacked by the developer's lawyer yesterday, a residents' opposition group was already contemplating an appeal to a higher level.

The Ontario Municipal Board hearing on the long-standing battle to build a Wal-Mart at the intersection of Woodlawn Road and Woolwich Street reconvened yesterday, allowing 6 & 7 Developments and Residents for Sustainable Development to make final arguments.

The hearing was abruptly adjourned in August after the residents' group introduced its freedom of religion argument so that both sides would have more time to prepare their cases. The hearing was rescheduled and continues today and Thursday.

Roslyn Houser, the lawyer for 6 & 7, spent most of yesterday arguing that building the Wal-Mart next to the Ignatius Jesuit Centre would in no way infringe on people's religious practices at the spiritual retreat spot.

"If the belief is shopping is harmful to spiritual growth, no one is asking them to change their beliefs," Houser told the OMB.

"No one is being coerced to follow a religious practice he or she does not pursue and no one is restrained from religious practices he or she pursues. No one is told to do anything."

The Jesuits earlier in the hearing argued a Wal-Mart would not be compatible with their activities and could lead to the demise of the centre.

Dennis Galon, the agent representing the centre, said people visiting the 600-acre site on spiritual retreat will be confronted with the consumerism values they wish to leave behind.

However, Houser pointed out that the Jesuits' religious practices weren't impeded by the strip mall that includes large Canadian Tire and Staples stores across the road from the proposed 21.4-acre Wal-Mart site.

"The Jesuit centre has been able to adapt over the years to changing surroundings. The development proposal won't even be visible from most of the Jesuit property. The centre is so large . . . if an individual wants to avoid a glimpse of the store, they have many locations to go to on the 600-acre property.

"The mere presence of Wal-Mart cannot be considered an infringement."

Ben Bennett, spokesperson for the residents' group, wasn't surprised by Houser's statements and said his confidence hasn't been shaken. He has been involved in the battle against the 135,000-square-foot Wal-Mart since day one and said the fight is far from over.

"At this point, it won't come to the end of the road," Bennett said. "We are already looking ahead to an appeal. We are already looking to a higher level."

Bennett suspects no matter which side wins at the OMB, there will be an appeal to the court system. Such an appeal could mean several more years before a final decision is made on whether Wal-Mart can call Guelph home.

Eric Gillespie, lawyer for the residents' group, said bringing the Charter of Rights and Freedoms argument into the hearing gives the group a better chance for appeal.

"You are not allowed to appeal on findings of fact, but you can appeal on legal issues and the charter raises primarily legal issues," Gillespie said.

The OMB hearing initially began in 1998 after 6 & 7 Developments appealed to the board when city council rejected its planning application in 1997.

Final arguments at the hearing are still to come from the City of Guelph and Gillespie.

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Jesuits could leave

Spirituality centre could relocate if Wal-Mart opens, OMB is told

DEIRDRE HEALEY

GUELPH (Oct 21, 2004)

A century of religious history could be driven out of the city if Wal-Mart sets up shop in north Guelph, says an Ignatius Jesuit Centre spokesperson.

As the end to the Ontario Municipal Board hearing on an application to build a Wal-Mart next to the Jesuit Centre draws near, Dennis Galon said the fate of the historical site is in the balance.

He said the now-peaceful location is essential to the centre and if the OMB allows the 135,000-square-foot department store to be built nearby at the intersection of Woodlawn Road and Woolwich Street, it will destroy the centre's ability to provide a tranquil meditation spot.

"People come to the centre to get away from the urban tension and go to an experience of rural peace. Some people find God speaks to you in silence," Galon said during an interview yesterday.

He said it would only make sense for the centre to move since the price of land will jump with the presence of the Wal-Mart, and with the department store as their neighbour there is no way to get away from the hustle and bustle.

"The value of the land will go up with the Wal-Mart because other businesses will want to build there. Any reasonable person would sell. And any reasonable person would close down because of the interference.

"Closing the centre down and moving somewhere else would be more effective. That is what any reasonable person would do."

Galon's concerns of losing the centre's peaceful rural landscape were echoed yesterday as Eric Gillespie, lawyer for Residents for Sustainable Development, presented his final arguments to the OMB.

Gillespie said the close proximity of the Wal-Mart to the centre would be an infringement on the Jesuit's religious practice and therefore a violation of the Charter of Rights and Freedoms. "The law says if you have a constitutionally protected value . . . it cannot be interfered with. And the interference is obvious here."

He said having the department store next to the retreat centre will limit members from meditating in a peaceful environment, which is an integral practice in the Jesuit faith.

"No one is telling the user of the Ignatius Jesuit Centre to practice something, but they are limiting what members can do at their own site.

"If someone is asked to take off their turban, it may not mean anything to one religious faith, but a terrible affront to someone else. This is more of an infringement. You are talking about building a multi-million dollar building next to a year-round spiritual retreat centre."

The 600-acre centre has been a part of the City of Guelph since 1913. It was established as a centre for the formation of Jesuit novices. Today it is a retreat spot.

As many as 50 people stay at the centre's Loyola House on retreat at one time and the standard length of stay is eight days.

The centre also provides day retreats for high schools and the land around the centre has plots for community gardening and a 10-kilometre trail for public use.

Gillespie told the OMB the Jesuits have no problem with a Wal-Mart being built in the city, just not next to them.

The OMB hearing initially began in 1998 after 6 & 7 Developments, the developer building the Wal-Mart, appealed to the board when city council rejected its planning application in 1997.

In May, a new city council voted in favour of building the Wal-Mart at the north end of Guelph.

Josephine Matera, the lawyer for the City of Guelph, said in her final argument yesterday it is the Jesuit's choice whether they allow the Wal-Mart to interfere with religious practices.

"They choose to be bothered by Wal-Mart and the concept of having a Wal-Mart next door," said Matera. "If you can't see the Wal-Mart, if you can't hear the Wal-Mart, if you can't smell the Wal-Mart and there are no physical impacts of Wal-Mart then the only conclusion we can draw is members and users choose to be annoyed by the Wal-Mart next door.

"You can't elevate that feeling to a charter protected right."

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Guelph's Wal-Mart battle tests OMB

DEIRDRE HEALEY

OMB member Bob Boxma is glad the marathon Wal-Mart hearing is over.

GUELPH (Oct 22, 2004)

Guelph's Wal-Mart battle is the biggest challenge the Ontario Municipal Board has faced, the board member hearing the case said at the close of final arguments yesterday.

"Thank you for giving me the biggest challenge of my life," Bob Boxma told the lawyers before adjourning the hearing.

"I am glad to now see it completed."

After six years, the hearing on the application to build a Wal-Mart at the intersection of Woodlawn Road and Woolwich Street came to a close yesterday.

Eric Gillespie, lawyer for hearing opponent Residents for Sustainable Development, said Boxma's final statement is a hopeful sign. "Inner turmoil is a good sign," said Gillespie.

"It means we have given him something to think about."

Yesterday's session ended a hearing that began in 1998 after 6 & 7 Developments, proposing the Wal-Mart, appealed a 1997 council decision rejecting its application.

Central to opposition to the store is the presence of the adjacent Ignatius Jesuit Centre.

Evidence from both sides was presented in August. However, the hearing was abruptly adjourned Aug. 11 to give lawyers more time to develop their final submissions after Gillespie notified the other parties he would be arguing the board must consider freedom of religion at the centre in its decision. The charter issue was made public in September.

A three-day hearing was scheduled this week for lawyers to give their final arguments.

Boxma said his ruling could come as soon as 30 days or as far off as several months. "I just don't know at this point," he said.

Before the hearing began, there were three other sites in the city available for development, city planner Craig Manley said during an interview yesterday.

Those included a site at the intersection of Paisley Road and Elmira Road, a site at the intersection of Clair Road and Gordon Street and a site at Watson Road and Highway 7. All three of those sites have since been grabbed up by other developers, with the Watson Road site only being approved a couple weeks ago.

The only site available now for a Wal-Mart is the controversial Woodlawn Road and Woolwich Street site, said 6 & 7 Developments' lawyer Roslyn Houser.

"There are no other locations that have the designation that would accommodate the proposal. Over time the alternate sites have been occupied, but even if there were alternate sites that wouldn't matter. What we are here to do is look at the appropriateness of this site."

The Jesuits argue a Wal-Mart will destroy the tranquil setting that is integral to their meditation retreat spot near the Wal-Mart site, and could lead to the demise of the centre. If Boxma gives the go ahead for the development, construction of the 135,000-square-foot store could begin as early as spring 2005, with an opening by fall.

"Once it's approved, we will do a review of the site plan, which takes about four months," said city planner Craig Manley. "That involves lighting, drainage, building design and landscaping."

However, if the residents' group seeks an appeal to the courts on the approval, construction could be put on hold.

Gillespie said it would take about a month for the Ontario Divisional Court to determine if there are grounds for an appeal and another three to six months before the appeal could be heard. "Once there is permission given for an appeal, generally speaking everything is put on hold," he said.

While residents' group spokesperson Ben Bennett is keeping his fingers crossed the group will be successful this time around, he isn't planning on the fight to end.

"I have a sneaking suspicion it's not over," he said. "I am not closing the file in my office yet."

If there is an appeal of the OMB decision, Bennett said there won't be any problem finding the funds to pay for another hearing.

"We managed to raise \$20,000 in 10 weeks to get this lawyer (Gillespie). I am sure we won't have a problem raising more.

There are a lot of people in this community who feel this issue is important and care about what happens."