



May 17, 2023

**Nottawasaga Valley Conservation Authority**  
8195 8th Line  
Utopia, ON, L0M 1T0

**Attn:** Davin Metheral, Planner I

**RE:** **Proposed Zoning Bylaw Amendment**  
**Town File No. Z5-23**  
**6 Sandy Lane, Angus**  
**NVCA ID #56013**

Dear Mr. Metheral,

Thank you for providing a detailed letter in response to our Zoning Bylaw Amendment application related to 6 Sandy Lane. I have carefully read your response and the factors that led to Nottawasaga Valley Conservation Authority not supporting our request to re-zone 6 Sandy Lane. I appreciate the opportunity to respond to your decision with this letter. In writing this letter, I will provide information that addresses and responds to the concerns you've identified with the hopes that you will reconsider your decision.

To start, I would like to tell you more about Multicultural Community Living Services (MCLS) and what we stand for.

Multicultural Community Living Services (MCLS) is a licensed, not-for-profit organization registered in Ontario in January 2021. Individuals supported by MCLS will be funded and regulated by the Ministry of Children, Community and Social Services (MCCSS) and MCCSS approved transfer payment agencies. The organization was specifically formed to help address the rising need for homes that provide supports and services for adults with developmental disabilities in Simcoe County. Currently, there is 23-year waitlist for residential services/group homes. As a result, organizations are needed to provide beds and quality supportive services for adults living with developmental disabilities across Ontario, including Simcoe County.

In response to the severe gap in residential/housing and supportive services, MCLS has set an organizational mandate to help address the problem. MCLS will provide housing opportunities in supported living settings for individuals with developmental disabilities that are struggling to find a place they can call home.

Our Vision is for ALL persons with developmental disabilities and mental health support needs to live fully and equally within our communities through embracing and celebrating the diversity, differences and special uniqueness of each individual we support.



Our Mission is to enhance quality of lives, promote inclusion within our communities and empower person-directed supports for individuals with complex needs, developmental disabilities and mental health concerns.

Our facilities will replicate a "home-like" environment and will be staffed on a 24-hour basis with various support workers and supervisors rotating shifts. Our staff are experienced in all aspects of providing supported living services and all our employees are trained to provide the highest quality care to ensure the health, safety, and welfare of all our clients. Only highly trained and vetted professional social workers, behavior therapists, and support workers who know what it takes to give our clients the best services they deserve will be recruited and retained.

### **6 Sandy Lane**

6 Sandy Lane is a residential single-detached 5-bedroom home. MCLS and MCCSS values the rights, privacy and dignity of the people living at the residential locations. In line with MCCSS guidelines and MCLS values and principles, each person residing at 6 Sandy Lane will have their own bedroom. Therefore, there will be a maximum of 4-5 people living at 6 Sandy Lane.

The house at 6 Sandy Lane is not accessible for people with physical mobility support needs. The layout is a back split. At the entrance of the house there is a staircase going up to the main floor and a staircase going down to the bottom floor. There are also several elements of the home that make it not accessible. The washrooms are not accessible due to a stand-up shower on the bottom floor and a step-in bathtub shower on the main floor. The doorways and hallways are not wide enough to support people with physical mobility needs. The kitchen and bathroom counter tops are not to accessible standards. Therefore, people for consideration to live at 6 Sandy Lane cannot have physical mobility support needs. Rather, we will only be supporting adults with developmental disabilities that will have the ability to evacuate on their own in the event of any emergency, including weather hazards.

One main purpose of the PPS is to uphold public health and safety regarding decisions of land use. MCLS has a similar priority for ensuring the health and safety of the people we support in the environments in which they live. There are a number of provincial legislations and standards related to health and safety that we must follow, along with auditing processes that hold us accountable to these high standards. These legislations address the issue of health and safety related to weather hazards and evacuation.

### **Government Legislation for Safety**

As mentioned earlier, MCLS is a not-for-profit organization funded by MCCSS and MCCSS approved transfer payment agencies. Operations of MCLS must comply with O. Reg. 299/10: QUALITY ASSURANCE MEASURES under the Services and Supports to Promote the Social Inclusion of Persons with Developmental Disabilities Act (SIPDDA), 2008, S.O 2008, c. 14.



The Ministry of Children, Community and Social Services work includes the provision of 'Social Assistance', 'Programs for Adults with a Development Disability', 'Community Services' and 'Child and Spousal Support Orders'. Under its responsibility for Programs for Adults with a Development Disability, the Ministry is authorized by law to approve and issue a licence to operate a group home that houses children with developmental abilities and special needs. It is part of the Ministry's responsibility to assess and determine whether basic care and safety requirements, set out in the Child, Youth and Family Services Act, 2017 as well as other regulations and policies are being met and to take action when these requirements are not being met.

The Services and Supports to Promote the Social Inclusion of Persons with Developmental Disabilities Act, 2008 (SIPDDA) defines Ontario's developmental disability laws. The SIPDDA includes a specific definition for development disability along with who gets support and why. One of the residential supports provided is Supported Group Living Residences which are defined as: "supported group living residence" means a staff-supported residence operated by a service agency, in which three or more persons with developmental disabilities reside and receive services and supports from the agency, The SIPDDA enables the establishment of standards for the construction and maintenance of such residences, the health and safety of residents, the requirements for staff and volunteers and their qualifications, the provision of services and supports to residents, the maintenance of records and the rules governing physical restraint of residents and the training of staff in relation to the use of physical restraint.

We are held accountable to follow all the regulations, measures and safeguards outlined in this Act and we are audited on an annual basis through compliance inspections by MCCSS.

#### **Examples of MCCSS regulations:**

According to O. Reg. 299/10: QUALITY ASSURANCE MEASURES, Section 33(1), we must have an approved fire safety plan, an emergency preparedness plan to address emergency situations (including floods), training for staff members in the emergency preparedness plan, and a continuity of operation plan that ensures safety around entity owned or entity operated premises during a service disruption. Please refer to Appendix A for MCLS Fire Safety Plan Policy and Appendix B for MCLS Emergency Evacuation Plan.

Furthermore, MCCSS regulations require fire drills to be conducted monthly with documentation of the drill, who attended, and how long it took to evacuate. In addition, the Fire Department conducts annual inspections where the fire safety plan is reviewed and an evacuation drill is conducted. With all of the safety measures in place, MCLS is held accountable and the people receiving supports are given ample practice to ensure they know what to do in case of an emergency.

#### **Staffing Requirements**

Quality Assurance Measures also mandate adequate staffing supports to ensure the health and safety of the people supported. Section 12(2) states that a service agency shall maintain adequate support staff, at a level identified in the person's individual support plan, to address the safety, security and well-being



of persons with developmental disabilities who receive services and supports from the service agency [O. Reg. 299/10, s. 12 (2)]. Therefore, the staffing supports that MCLS must provide is another added safety layer that mitigates the risk associated with living in a hazardous area.

PPS 3.1.5 states that no development should occur for institutional use where there is unacceptable risk to public safety. Taken on its own, people with developmental disabilities living in a hazard zone \*may\* pose a risk to their health and safety. However, when determining the level of risk and whether or not it is acceptable, it is crucially important to take into account the additional context I have provided. That is, the people living at 6 Sandy Lane cannot have physical mobility challenges that will impede their ability to respond in an emergency situation. They must have the skills to self-evacuate (as overseen by MCCSS and the fire department). Moreover, the numerous standards, measures, policies, and procedures that MCLS is mandated to follow by law to ensure the health and safety of the people in care must be considered. Given the aforementioned safeguards, the safety concerns mentioned in PPS 3.1.5 are significantly mitigated, where a person with a developmental disability living in a group home in a hazard zone does not pose unacceptable risk.

### **Response to PPS 3.1.5 Institutional Use**

Section 3.1.5 a) states that development shall not be permitted to locate in hazardous lands and hazardous sites where the use is institutional. I'd like to **refute the use of the term "institutional use"** as outlined in your response and in section 3.1.5 of the PPS.

Daycares, schools, hospitals, and long-term care facilities support hundreds to thousands of people which matches the definition of institution. As I previously described, 6 Sandy Lane is a single, detached residential home. The last institution for people with developmental disabilities was shut down in Ontario in 2009 so that people could live equally within their communities. 6 Sandy Lane should therefore not be considered an institution given it is a single-use dwelling.

Further, the Ontario Land Tribunal clearly defines supportive and group home housing – with or without support workers – as **residential use**. Also, the Ontario Human Rights Code **does not support** the zoning of living accommodations, including group homes, as businesses or services, because these zoning categories can subject the people who live in the housing to higher levels of scrutiny and expectations than do other forms of residential housing. **Opposition to housing for people with disabilities is a violation of people's rights to be free from discrimination in housing – which means it is against the law.** There are numerous cases that have been taken to both the Ontario Land Tribunal and the Ontario Human Rights Tribunal that involved denied group home living to people with disabilities. In all of these cases, municipalities and zoning bylaws were struck down in favour of providing access to housing for people with disabilities. These cases will be discussed later in this letter.

**Furthermore, Section 4.4 of the PPS states the following: This Provincial Policy Statement shall be implemented in a manner that is consistent with Ontario Human Rights Code and the Canadian Charter of Rights and Freedoms.** Since the Ontario Land Tribunal and Ontario Human Rights Code both



define group home living as residential use, not institutional use, the decision to deny our request for re-zoning is **not consistent** with the Ontario Human Rights Code and the Canadian Charter of Rights and Freedoms. **The decision is therefore, also in violation of PPS Section 4.4.**

### **Violation of Human Rights**

Considering the numerous measures we have in place to mitigate the risk for people with developmental disabilities, and that we can only provide housing to people who can self-evacuate, the decision to not support our Zoning Bylaw Amendment is an infringement on the rights of people with developmental disabilities who reside in group homes. The Ontario Human Rights Code prohibits the violation of a person's rights based on protected grounds (i.e., disability) and protected social areas (i.e., housing). In fact, there are current vulnerable senior citizens and people with disabilities that live in flood zones in Essa Township in residential settings that are not mandated to have increased safety measures. The safety measures that MCLS is mandated to follow makes the living conditions of a group home safer than a senior citizen or person with a developmental disability living in a private residential setting in Essa Township.

Several provincial and federal laws, regulations, and case examples from other jurisdictions clearly show that denying our re-zoning application is against these laws and a violation of the protected rights of people with disabilities to access housing. When similar case examples were brought to the Ontario Human Rights Tribunal and Ontario Land Tribunal, they were deemed to be discriminatory which resulted in municipalities allowing group homes in residential areas. The numerous laws, regulations, and case examples that have been provided in this letter take precedence over the guidelines in the PPS.

### **Case Examples: Human Rights Violations Related to Housing**

The Ontario Land Tribunal and Ontario Human Rights Tribunal have presided over several cases that denied housing to people with disabilities because of municipal and provincial standards. In all the cases I will summarize, cities were required to allow people with disabilities to reside in their communities, despite laws and regulations regarding land-use.

#### **1. The City of Sarnia**

In 2009, a complaint was filed to the Ontario Land Tribunal against the City of Sarnia regarding the city's policies on group homes. The complainants alleged that the city's policies, including the Zoning By-law, violated the human rights of people with disabilities because it added additional barriers for the provision of group homes, which at the time included:

- Mandated minimum separation distances for group homes;
- Did not permit group homes in all residential zones; and
- Included requirements for group homes to be located on arterial or collector roads.

It is important to note that according to the St Clair Region Conservation Authority, Sarnia is located in a



flood zone because of the Sydenham River watershed and thirteen smaller watersheds draining directly into southern Lake Huron, the St. Clair River and northeastern Lake St. Clair. However, as a result of this complaint, the city conducted a review of the existing zoning bylaw to ensure the city was in compliance with the Ontario Human Rights Code. Upon review, the city implemented Amendment No. 43 to the Official Plan of the City of Sarnia and Rezoning Application 1-2010-85 in April 2010, which removed the requirements for minimum separation distances and for group homes to be located on arterial or collector roads, **and permitted group homes in all residential zones**. Therefore, the rights of people with disabilities to access housing in residential areas took precedent over provincial policy statement guidelines.

## 2. The City of Kitchener

In 2010, human rights applications were filed against Kitchener to challenge discriminatory sections of their zoning bylaws (**Official Plan Amendment No. 58, [2010] O.M.B.D. No. 666**). Two bylaws stopped new non-profit and supportive housing from being built in the Cedar Hill neighbourhood in downtown Kitchener. Here are some key points from this case:

- Zoning bylaw and official plan amendments that banned new development of all forms of residential care, group homes, rooming houses and non-profit services from a neighbourhood were struck down
- The Advocacy Centre for Tenants Ontario (ACTO) and other groups objected and the Ontario Human Rights Commission (OHRC) argued in a submission to the OMB that the Board had to follow the Ontario Human Rights Code.
- Suggested that these amendments were a form of “people-zoning,” and found that the city must consider the impact of planning decisions on “Code-protected groups”
- OHRC Chief Commissioner Barbara Hall said, “People with disabilities or on social assistance were the targets; they were told, in effect ‘we don’t want more people like you in this neighbourhood’. The *Human Rights Code* says you can’t discriminate like that.”
- “Using bylaws to keep some people out of neighbourhoods is wrong; zoning is for buildings, not for people”, “Municipalities should be working to improve accessibility for people with disabilities – not making it harder for them to find places to live said Barbara Hall.

It is important to note that according to The Grand River Conservation Authority (GRCA) parts of Kitchener is in a flood zone due to the Grand River. Despite this hazard zone people with disabilities are allowed to live in group homes and that their homes are always considered to be in **residential zones**.

### Decision:

**The City of Kitchener redrafted the two bylaws as well as an amendment to the City’s Official Plan to include “Residential Care Facility” in all residential zones** (By-law 2003-163, S.12) (Amended: By-law 2012-140, S.1) (Amended: By-law 2013-124, S.6) (Amended: By-law 2015-068, S.4). Therefore, the rights of people with disabilities to access housing in residential areas took precedent over provincial policy statement guidelines.



### 3. The Cities of Toronto and Smiths Falls

The human rights applications were filed on behalf of the Dream Team, a group of advocates living with mental health disabilities to challenge mandatory separation distances for homes for Ontarians with disabilities.

- **2014 The City of Toronto to conclude there was "no planning justification" and Council passed a bylaw change removing the restrictions.** According to Toronto and Region Conservation (TRCA) large areas of Toronto are in flood zones due to overflowing storm sewers. Despite this hazard zone people with disabilities are allowed to live in group homes and their homes are in all residential zones.
- **2014 Smiths Falls Council removed discriminatory sections of their zoning bylaws.** According to the Rideau Valley Conservation Authority (RVCA), Smith Falls is located in a flood zone due to the Rideau River. Despite this hazard zone people with disabilities are allowed to live in group homes and their homes are in all residential zones.

Laurie Letheren of the ARCH Disability Law Centre, representing a group of people with intellectual disabilities based in eastern Ontario, commented "the members of People First Ontario, celebrate this overdue change that affirms people living with disabilities can live in the neighbourhood of their choice."

Kathy Laird, Executive Director of the Human Rights Legal Support Centre said, "We call on every municipality to amend their bylaws and remove arbitrary barriers and focus on inclusion of people with disabilities in every community." Noting that hundreds of municipalities have such exclusions on their books, Laird "hoped further legal action won't be necessary."

### 4. The City of London

The City of London's Draft Official Plan, 2015 was reviewed by the Ontario Land Tribunal, with specific recommendations provided on Official Plan definitions and use of separation distances. The review supported the city's direction to allow group homes throughout residential neighbourhoods, and the removal of minimum separation distances for group homes. The Draft Official Plan included definitions which limited group homes to 3-8 residents, with a 'supervised residence' having more than 8 residents.

With regards to definitions, the recommendations state:

- Amend the official plan (and the zoning bylaw) definition, to allow group homes to have up to 10 residents, consistent with the Municipal Act, 2001. GROUP HOMES AND SUPPORTIVE HOUSING STUDY | FINAL DRAFT | NOVEMBER 2020 Page | 37
- **Amend the definition of "supervised residence" to be for more than 10 residents. An additional recommendation was to re-categorize 'supervised residences' (over 10 residents) as residential rather than institutional use, subject to the same limits as other housing based on land use principles.**



According to the Upper Thames River Conservation Authority, London is located in a flood zone because of the Dingman Creek Subwater Shed. Despite this hazard zone, the Ontario Land Tribunal indicated that people with disabilities are allowed to live in group homes and that their homes are to be defined as **residential homes, not institutions.**

### **Defining Discrimination in Housing**

Because the *Human Rights Code* is “quasi-constitutional,” it has primacy over provincial and municipal legislation, unless the legislation specifically says that it operates despite the *Code*. This means that when municipal bylaws and the *Code* conflict, **the Code takes precedence.**

*“Every person has a right to equal treatment with respect to the occupancy of accommodation without discrimination because of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, age, marital status, family status, disability or the receipt of public assistance.” – Ontario Human Rights Code, s.2(1)*

Many groups identified by prohibited grounds of discrimination including race, disability and family status do not have access to appropriate housing due to the barriers to securing housing, housing being inequitable and discriminatory opposition.

Discriminatory opposition in housing may often take on systemic or institutional forms. Systemic or institutional discrimination includes municipal bylaws, policies or practices that create or perpetuate a position of relative disadvantage for people identified by *Code* grounds. These may appear neutral on the surface, and may have been well-meaning, but nevertheless have an exclusionary impact based on *Code*-protected grounds. The key here is not to just consider intent – it is equally important to think about the impact municipal decisions have.

Discriminatory opposition to affordable housing for groups protected under the *Code* is a prime example of the “Not in My Backyard” syndrome or “NIMBYism.” It happens when people hold negative attitudes or stereotypes about the people who live in group homes, affordable housing, or use emergency shelters. This is often directly related to one or more *Code* grounds. This kind of opposition can be hidden in planning terms, and can be expressed in many ways, sometimes based on **exaggerated concerns** about changes to the neighbourhood, impact on traffic or about the building form.

Concerns about group homes must be based on legitimate land-use planning considerations, and not on stereotypical assumptions or prejudice towards the people who will live there. When policies or practices are directed towards, or disproportionately affect, *Code*-protected groups, they may violate the *Code*, people’s rights to be free from discrimination in housing – which means it is against the law.

Some examples of discriminatory practices could include:

- requiring affordable or supportive housing providers to adopt restrictions or design compromises that are not applied to other similar housing structures in the area, such as:
  - requiring fences or walls around the property to separate it from other neighbourhood homes because of the intended residents





- putting arbitrary caps on the numbers of residents allowed by project, ward or municipality
- adding visual buffers or removing balconies so tenants can't look out on their neighbours
- requiring residents to sign contracts with neighbours as a condition of occupying the building
- requiring extra public meetings, lengthy approval processes, or development moratoria because the intended residents of a proposed housing project are people from *Code*-identified groups
- imposing minimum separation distances or restrictions on the number of housing projects allowed in an area
- making discriminatory comments or conduct towards the intended residents of a housing project at public planning meetings or in published or displayed notices, signs, flyers, pamphlets or posters
- **Enacting zoning bylaws that restrict affordable housing development that serves people identified by *Code* grounds (i.e., group homes) in certain areas while allowing other housing of a similar scale (Zoning rules allow residential homes to rent rooms to an unlimited number of people with disabilities. Group homes are also residential homes but not permitted to be in the same zoning areas).**

Affordable, supportive and group housing – with or without support workers – are still residential uses. **The Ontario Human Rights Code does not support zoning such living accommodations as businesses or services, because these zoning categories can subject the people who live in the housing to higher levels of scrutiny and expectations than do other forms of residential housing.**

**Extra requirements mean more barriers.** If a municipality imposes different or extra requirements for public meetings, consultations, hearings, design charrettes or other processes on affordable and/or supportive housing that are not placed on ownership housing, then this could amount to discriminatory behaviour. Using excessive or extra requirements for consultation for certain types of housing delays the development process, increases the uncertainty and costs associated with the project and could, if the delays and extra requirements add up, ultimately jeopardize the project itself. Developers of affordable and/or supportive housing should face the same regulatory processes as other forms of housing, and not face additional or excessive requirements for meetings and consultations. Smart developers usually seek to creatively engage their potential neighbours, but requirements for excessive consultation can frustrate a project.

### **Housing Crisis for People with Disabilities**

There is an acknowledged need for housing for people with disabilities in Ontario and across Canada – but the public controversy that is attached to housing for people with disabilities continues to be one of the biggest barriers to developing it. A key part of achieving inclusive neighbourhoods where all residents feel welcome to live, work and play is taking steps to overcome community opposition to group homes. One way to overcome these barriers is to clearly and consistently make the connection between human rights and the bylaws, policies and procedures that govern housing.



The following human rights principles apply to housing:

- Everyone in Ontario has the right to be free from discrimination in housing based on membership in a **Code-protected group**. This covers getting housing, during tenancy and evictions
- People should be able to live in the community of their choice without discrimination
- Healthy and inclusive communities provide and integrate a range of housing for people of all income levels
- Landlords, housing providers, neighbourhood associations, municipalities, appeal bodies like the Ontario Municipal Board and the courts all have an obligation to make sure that people do not face discrimination in housing
- **Discriminatory opposition to affordable housing projects is often found in the form of policies, legislation, actions, attitudes or language used that create barriers for people from Code-protected or disadvantaged groups**
- Legislation governing municipalities, such as the *Municipal Act, 2001* and the *Planning Act*, are frameworks for municipal autonomy, decision-making, transparency and accountability. In carrying out their responsibilities under these and other legislation, policies and programs, municipalities are responsible for ensuring they do not violate the *Code*.

### Conclusion

Using PPS Section 3.1.5 to define group homes as “institutional use” is incorrect according to the Ontario Land Tribunal, the Ontario Human Rights Code, and several case examples from other cities. Denying housing for people with disabilities is in violation of PPS Section 4.4: This Provincial Policy Statement shall be implemented in a manner that is consistent with Ontario *Human Rights Code* and the *Canadian Charter of Rights and Freedoms*. *The Human Rights Code has primacy over provincial and municipal legislation and if municipal bylaws and the Code conflict, the Code takes precedence.*

Given that group homes for people with disabilities are defined as residential use, to deny housing for people with disabilities is a direct violation of Human Rights Code and against the law.

Lastly, with the number of standards and measures that MCLS must follow under the Government legislations for safety (that counteract the concerns in the PPS), and the close government monitoring we experience as a licensed group home, denying housing to people with developmental disabilities is unwarranted.

Thank you for taking the time to read this response. Given the additional information I have provided, I respectfully request that you re-consider and approve our application for re-zoning 6 Sandy Lane.

Regards,

Luke Lynn

Property Owner of 6 Sandy Lane

(T) 416-997-9802

<sup>[2]</sup> Ontario HomeComing Coalition, *Yes, In My Backyard – A Guide for Ontario Supportive Housing Providers*, 2005, p. 27

<sup>[3]</sup> de Wolff, Alice. *We are Neighbours: The Impact of Supportive Housing on Community, Social, Economic, and Attitude Changes*, 2008, Wellesley Institute, p.iv.

<sup>[4]</sup> George Galster, Kathryn Pettit, Anna Santiago, and Peter Tatian, *The Impact of Supportive Housing on Neighbourhood Crime Rates*, 2002.

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