

Request for Decision

Driveway Appeal - 1441 Redfern Street

Presented To: Hearing Committee

Presented: Wednesday, Oct 09, 2013

Report Date: Wednesday, Oct 02, 2013

Type: Public Hearings

Recommendation

That the City of Greater Sudbury uphold the Order to Comply to remove and close the second driveway for 1441 Redfern Street, accessing Barry Downe Road.

Background

The property at 1441 Redfern Street is Zoned "R1-5", Low Density Residential under By-Law 2010-100Z. The property fronts Redfern Street with the rear yard backing onto a one (1) foot reserve that runs parallel to Barry Downe Road. A location map is attached for reference.

In May 2002, Mr. & Mrs. Lische applied for a building permit to construct a garage on their property which was subsequently reviewed by City Staff and a building permit was issued (Permit number 02-0396). The development plan submitted identified the location for a 30' x 40' garage in the north-east corner of the lot and did not identify the need for an access driveway from Barry Downe Road.

Staff noticed that the property owner had constructed an unapproved driveway on to Barry Downe Road in November of 2004. The Director of Roads and Transportation Services contacted the Lische's on November 30, 2004 to inform them that their entrance on to Barry Downe Road was not approved and needed to be removed accordingly. Follow up letters were sent on November 30, 2005 and January 12, 2009 with no action taken by the property owners on the said matter.

On June 23, 2009 City crews attended the site and removed the unapproved driveway and invoiced the property owners for the work. The driveway was reestablished by the property owners the following day, June 24, 2009. On August 20, 2010 staff sent the property owners another letter asking them to remove the driveway. No action occurred as a result of the letter.

On May 17, 2013, an Order to Comply was submitted to the Lische's which required the property owners to once again remove the driveway abutting Barry Downe Road. On June 4, 2013 the City received a letter

Signed By

Report Prepared By

Tony De Silva
Roads Operations Engineer
Digitally Signed Oct 2, 13

Division Review

David Shelsted
Director of Roads & Transportation Services
Digitally Signed Oct 2, 13

Recommended by the Department

Tony Cecutti
General Manager of Infrastructure Services
Digitally Signed Oct 2, 13

Recommended by the C.A.O.

Doug Nadorozny
Chief Administrative Officer
Digitally Signed Oct 2, 13

from the property owners' lawyer requesting a two (2) week extension to the deadline to allow their clients the opportunity to secure an entrance permit and if unsuccessful, re-evaluate the situation. Staff verbally agreed to the extension. On June 5, 2013 the City received an application for a second driveway for 1441 Redfern Street. Staff reviewed and denied the application.

The decision on this matter was based on the requirements outlined in By-law 2011-220, Schedule A, Guidelines for Approval of Private Entrances. Specifically, the following requirements of the by-law were not met and are the basis of staff's decision:

“the entrance to a property in a residential zone which has less than 30 metres frontage, should not result in the property having more than one entrance”, and

“the Official Plan requires that entrances onto arterial roads should be strictly regulated and kept to a minimum. Whenever property has frontage along more than one roadway, access will generally be limited to the lowest volume road”.

The property owners were advised of this decision shortly thereafter. Through Mr. Caza of Miller Maki, the City received a request for a hearing to challenge their position on this matter pursuant to Bylaw 2011-220.

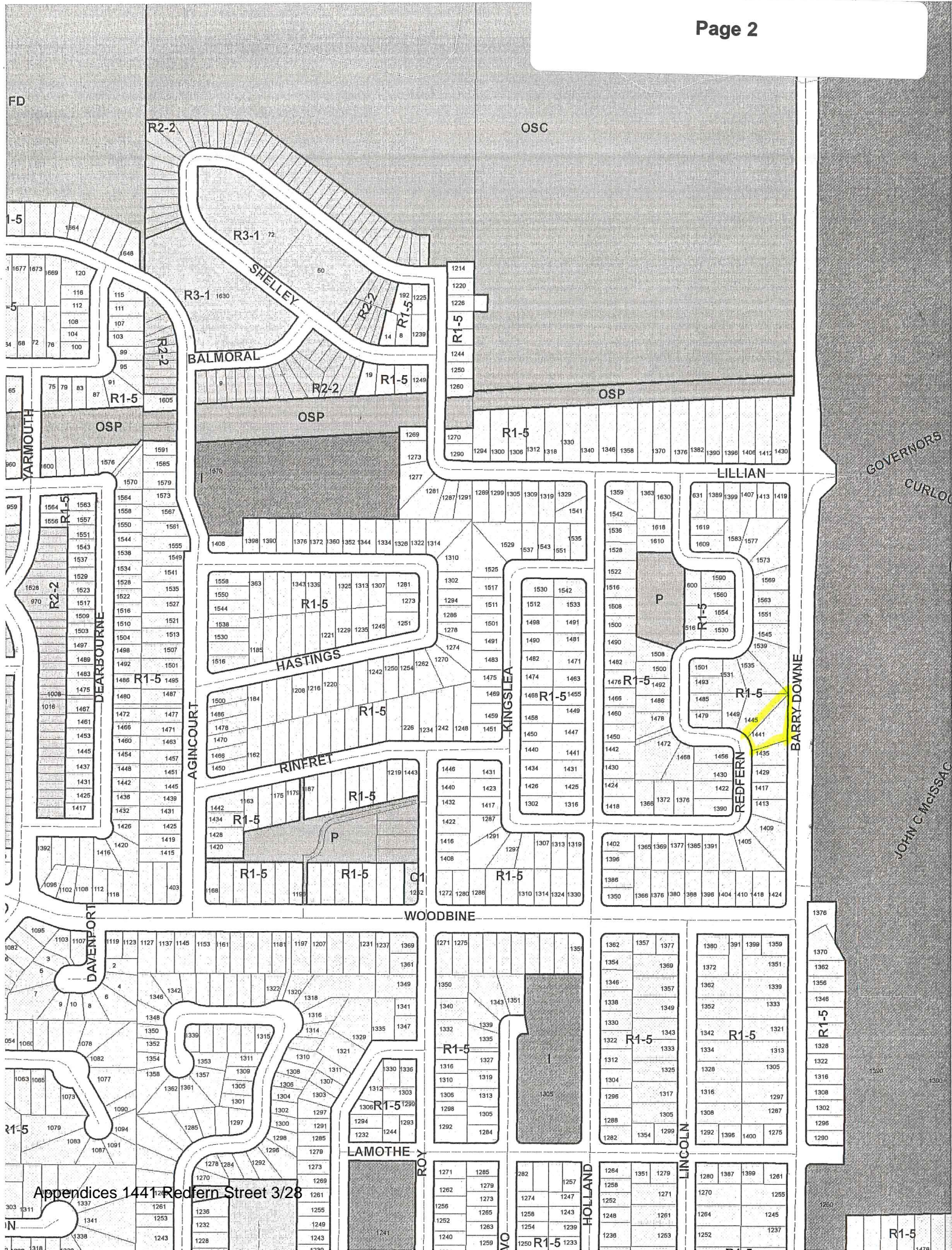
In addition to the reasons identified in the Approval of Private Entrance application, the property owners at 1441 Redfern Street would need to address the issue of crossing a one (1) foot reserve that runs parallel to Barry Downe Road along the back of their property. Property reserves, similar to one found along Barry Downe Road at this location, are typically put in place to control access to high volume Arterial and Collector roadways. Currently, the one (1) foot reserve is held in private ownership to which the property owners do not have permission to cross.

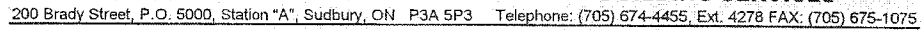
Conclusion

Barry Downe Road, north of Lasalle Boulevard, is a secondary arterial road with an annual average daily traffic count of approximately 10,000 vehicles and as such requires stricter controls as it relates to driveway access. This requirement is supported in a recent OMB decision (Grylls vs. City of Greater Sudbury – September 10, 2013) which was based in part on the premise that access to a secondary arterial road needs to be strictly regulated and kept to a minimum. This fact combined with the lack of approvals and agreement to cross private property was the basis for staff's decision to deny a private entrance to Barry Downe Road at this location.

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APPLICATION FOR A BUILDING PERMIT

Page 3

McKIN 06 LIT Reg Pln M562 Lot 72 Ref Pln
Part Parcel PIN:
Roll No. 5307-036-019-02600-0000 Land Use: SINGLE FAMILY HOME
Registered LISCH, HENRY Contact:
Owner: Home: (705) 566-0763
1441 REDFERN ST
SUDBURY ON P3A-358 Work: (705)
Applicant: LISCH, NANCY Contact: NANCY
(705) 566-0763

Building Information: (T) Length: 40.00 Width: 30.00 Height: 13.50
Storeys: 1.0 Ground Area: 1200 Gross Area: 1200 No. of New Units:
Front Yard: 100.0 Side Yard: 75.0 Rear Yard: 15.0 Other Side: 0.0
Fireplaces: N Wood Stoves: N Garages: Y Site Plan: N
Lot Information: Frontage: 30.0 Depth: 210.0 Area: 6300
APPLICANT TO CONSTRUCT DETACHED GARAGE. AN
Prior to a building permit being issued, all conditions and approvals listed
below must be completed:

PAID

APR 30 2002

BUILDING SERVICES
SECTION

Balance Paid by \$ 50

[illegible]

Nancy Lusche
Signature of Applicant

Apr. 30/02

BUILDING

5307-030-019-02600-0000

RECEIPT NO.: 12613
ISSUED BY: LM
MCINNES, Lyne

CONTRACTOR
=====

Phone:

FLOOR AREA

LENGTH	40.0	WIDTH	30.0	HEIGHT	13.8	GND	1200.0
FRONT	100.0	REAR	16.0			GRS	1200.0
SIDE-D	75.0	SIDE-O	6.0				

[illegible]

BUILDING INSPECTION APPROVALS

❶ Footing Inspection

② Weeping Tile Inspection

③ Framing Inspection

EST. VALUE ③ Framing Inspection 25,400

④ Insulation Inspection

Above Ground

Below Ground

⑤ Inspection for Occupancy

Final Inspection

PLUMBING INSPECTION APPROVALS

⑥ Ground Work

⑦ RIP (above ground)

8 Final

COMMENTS:

SURVEY COMPLIES:

☐ YES ☐ NO ☐ UNKNOWN

Building Inspector

Date _____

Roads and Drainage Comments for Building Permit Applications

Permit Number: **02-0396** Nature of Construction: **DETACHED GARAGE**
 Name of Owner: **HENRY LISCHE** Name of Applicant: **NANCY LISCHE**
 Municipal Address: **1441 REDFERN ST** Township: **MCKIM**
 Legal Description: **LOT 22 M562** Parcel Number: Twp Lot: **1**
 Concession: **6**

Applicant / Owner: READ THE FOLLOWING COMMENTS CAREFULLY !!!!!

1. All work done within a City Road Allowance shall be performed by the City of Greater Sudbury at the owner's cost.
2. Grading of the property is NOT to create ANY DRAINAGE PROBLEMS or adversely affect adjacent properties.
3. Existing Drainage Courses and patterns are to be accommodated and maintained at all time.
4. Roof or surface drainage shall not be discharged onto neighbouring property in any manner that would create a nuisance.
5. NO Structure is to be constructed or fill material placed within a City of Greater Sudbury Easement.
6. Proposed driveway grades are NOT to exceed 10% in accordance with BY-LAW 79-180.
7. Municipal address sign shall be clearly posted in accordance with BY-LAW 98-62
8. The following information is specific to the property being developed / altered.

a) A City of Greater Sudbury Municipal Easement exists on the subject Property	Y <input type="checkbox"/>	N <input checked="" type="checkbox"/>
b) A Swale is to be Constructed within the City of Greater Sudbury Easement	Y <input type="checkbox"/>	N <input type="checkbox"/>
c) Lot Grading Plan Registered on Title of Property.	Y <input type="checkbox"/>	N <input checked="" type="checkbox"/>
d) <input type="checkbox"/> Applicant is to grade the subject property in full compliance with the lot grading plan registered on title.		
e) <input type="checkbox"/> Applicant is to prepare a Lot Grading Plan for approval by the Assistant City Manager.		
f) <input checked="" type="checkbox"/> Street As Built Drawings Checked.		
g) <input checked="" type="checkbox"/> Access to a Open Publicly Maintained Road NOT AVAILABLE !		
h) <input type="checkbox"/> Interference with proposed City of Greater Sudbury Road Construction or Storm Sewer Construction.		
i) <input type="checkbox"/> A Driveway Culvert/ Curb Cut/ Sidewalk Depression may be required at the entrance to the site. The owner will be responsible for the full cost of this work. City Maintenance is to be contacted in this regard at 671-2742.		

9) Lot Levies / Charges \$

Comments: _____

Building Permit Issued: ☒ YES ☐ NO

If no, give reason _____

City of Greater Sudbury Technical Services Department Signature: _____

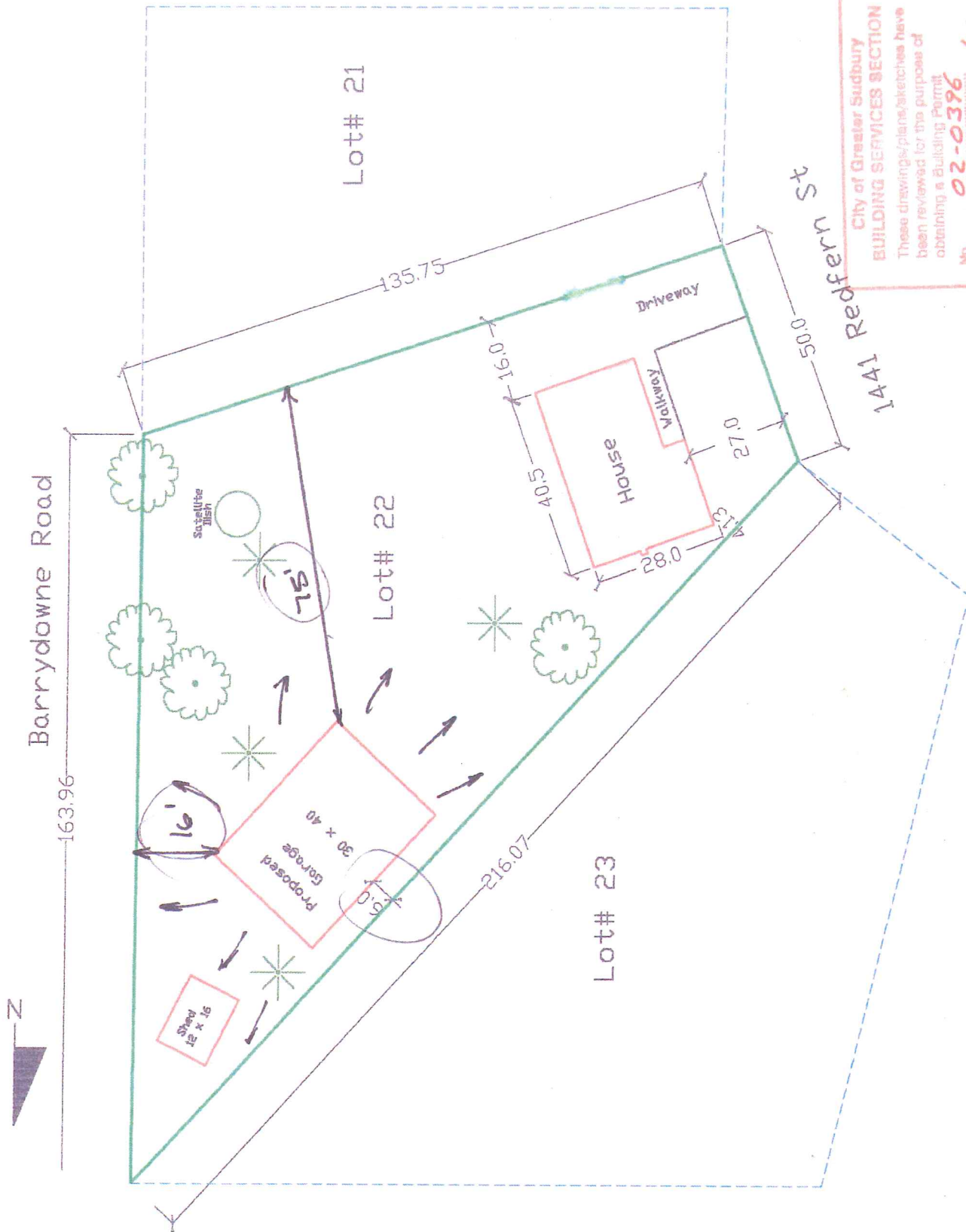
Date: May 3, 2002

I have read all of the above comments and do hereby agree to comply with them: _____

Owner / Applicant

Date: _____

Copies to: Building Controls , Owner / Applicant



City of Greater Sudbury
BUILDING SERVICES SECTION
These drawings/plans/sketches have been reviewed for the purpose of obtaining a Building Permit
No. 02-0396
DATE: May 13/02
SIGNED: [Signature]

Nancy Lusk
May 15/02
OFFICE COPY



SITE INSPECTION REQUEST

DATE June 2/09BUILDING PERMIT # _____ AREA MUNICIPALITY Sud.LOCATION 1441 Redfern

PROPERTY OWNER _____

REASON FOR INSPECTION

new garage - no permit
access from Barrydowne Rd. near
Cambridge College
Bryan Butcher

PERSON CONTACTED _____ TELEPHONE NO. _____

INSPECTION RESULTS

APPROX 4 CAR GARAGE IN REAR YARD
ACCESS FROM BARRYDOWNE RD

PERMIT # 02-0396 FOR DETACHED GARAGE

ACTION TAKEN/COMMENTS

[Signature]
 BUILDING INSPECTOR

JUNE 8/09
 DATE 1:20 PM

FEE: Not Required ☐
 Appendices 1441 Redfern Street 8/28

Collect On-Site ☐

Paid ☐ Receipt # _____



Record of Telephone Call

Engineering Section
Public Works Department

Date: November 30, 2004 Time: 12:20 Job No: Illegal Entrance

Place Called / Calling: 1441 Redfern Street

Party Called / Calling: Nancy Lische

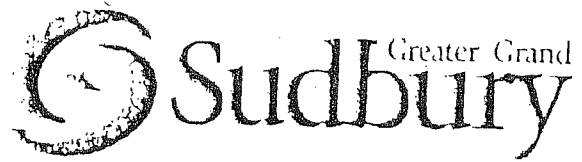
Message Received / Transmitted:

I called the residence to inform them that they have created an illegal entrance which blocks our roadside ditch. I spoke with Nancy and told her that the entrance would have to be closed and the ditch reinstated. At this time Nancy said that they were given permission to enter through this location and that she would be looking for the documentation to prove this. I was also informed that Henry would be much more capable of discussing the issue at which point I was asked for a contact number where I could be reached. I left my name # and extension with Nancy so that Henry could call me back.

Answer Given / Received:

Distribution

Signed: _____



November 30, 2005

Henry Lische
1441 Redfern Street
Sudbury ON P3A 3S8

PO BOX 60051
SUDBURY STREET
SUDBURY ON P3A 7P1

PO BOX 60051
SUDBURY STREET
SUDBURY ON P3A 7P1

705 671 2449

www.greatersudbury.ca
www.grandsudbury.ca

Re: Filling of roadside ditch and creation of entrance at the rear of
1441 Redfern Street

As representatives of the City of Greater Sudbury, it has come to our attention that the portion of your land which abuts Barry Downe Road has been filled throughout the length of the roadside ditch and a new entrance has been created off of Barry Downe Road. Our observance of this entrance and a request for removal were forwarded to the attention of Nancy Lische via telephone on November 30, 2004.

This letter is to advise that the above described works are in contradiction to By-Law 73-204 which states:

Section 5.

"No person shall throw, place or deposit by any means whatsoever on any road, boulevard or bridge within the said Region, building material, dirt, filth..."

Section 6.

"No person shall place any obstruction, or obstruct or cause to be obstructed any ditch, gutter or watercourse on any Regional Municipality of Sudbury road or boulevard."

The City hereby requests that the roadside ditch which existed along the rear portion of your land be reinstated as soon as possible and the driveway entrance which was created without municipal consent be closed immediately.

Should you fail to reinstate the right-of-way to its previous state before January 1, 2006, the City will invoke its rights under Section 8 of the By-law which states:

Section 8.

"...if such demand for such removal is not complied with forthwith, the Regional Engineer may cause the same to be removed and may charge the cost of such removal to the person aforesaid and the same may be collected by process of law."

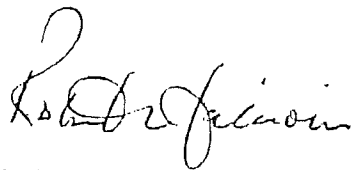
Filling of roadside ditch and creation of entrance at the rear of
1441 Redfern Street

Page 2 of 2

It should be noted that the By-law also states that "any person convicted of a breach of any of the provisions of this By-law shall forfeit and pay, at the discretion of the convicting Judge, a penalty ... exclusive of costs". While the City would prefer to keep this matter out of the court system we are advising at this time that legal action could result in additional costs to yourself.

Should you have any questions or concerns in this matter please contact the undersigned at 671-2489 extension 2486.

Yours truly,



Robert Falcioni, P.Eng.
Director of Roads and Transportation

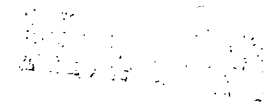
GJK/jk

cc: Roger Leblanc, By-Law Enforcement Officer



January 12, 2009

Mr. Henry Lische
1441 Redfern Street
Sudbury ON P3A 3S8



Dear Mr. Lische:

**RE: FILLING OF ROADSIDE DITCH AND CREATION OF REAR ENTRANCE
1441 REDFERN STREET, SUDBURY**

1441 REDFERN STREET
SUDBURY ON P3A 3S8

1441 REDFERN STREET
SUDBURY ON P3A 3S8

311
607-225-9100

www.greatersudbury.ca
www.grandsudbury.ca

This letter is a follow-up to the letter dated November 30, 2005 sent to you from Robert Falcioni, Director of Roads of Transportation (copy attached).

Please note that the illegally installed driveway off of Barrydowne Road, entering 1441 Redfern Street, must be removed by May 1, 2009. If the said driveway is not removed by the indicated date, the City will remove the driveway at the owner's expense without further notice.

If you should have any questions or concerns please do not hesitate to contact me at 674-4455, ext. 3614.

Sincerely,

Tony De Silva, P.Eng.,
Operations Engineer.

TDS/rt
Attachment

c.c. Robert Falcioni, Director of Roads and Transportation
Nathalie Mihelchic, Manager of Operations

Registered Domestic	Recommandé Régime intérieur	
To Destinataire		DELIVERY CONFIRMATION
HENRY LISCHÉ		1-800-550-6333
1441 REDFERN STREET		www.canadapost.ca
Sudbury, ON P3A 3S8		www.pptascanada.ca

NORTHWALL

258 Victoria St.
Sudbury, Ontario, Canada
P3C 1K4

Tel: (705) 566-2588
Fax: (705) 566-6756
E-mail: northwall@bellnet.ca

Greater Sudbury
Roads/Transportation

APR 23 2009

Director's Office

April 21, 2009

Mr. Tony De Silva

Re: Filling of roadside ditch and creation of rear entrance at 1441 Redfern St., Sudbury

In response to your letter dated January 12, 2009.

At no time was the ditch filled altered. In 1970 the City of Sudbury issued a building permit for the construction of a shed at the portion of my property which abuts Barrydowne Rd.

The entire property was fenced in with a double gate; the gate was installed to allow vehicle access to the rear of the property.

Should you have any questions or concerns in this matter, please contact the undersigned at home (705) 560-5589 or cellular (705) 665-4282.

Yours truly,



Henry Lische

cc: Jackie-McGaughey-Ward
Miller, Maki Barristers & Solicitors

• industrial • commercial • institutional •

• drywall • demountable partitions • plaster/EIFS • acoustic ceilings •



HAND DELIVERED

August 20, 2010

Mr. Henry Lische
1441 Redfern Street
Sudbury, ON P3A 3S8

Dear Mr. Lische:

**RE: REMOVING ILLEGAL ENTRANCE, CULVERT AND REINSTALLING SWALE AT
1441 REDFERN STREET, SUDBURY, ONTARIO**

PO BOX 5000 SIN A
200 BRADY STREET
SUDBURY ON P3A 5P3

CP 5000 SUCC A
200, RUE BRADY
SUDBURY ON P3A 5P3

705.671.2489
705.360.2022

www.greatersudbury.ca
www.grandsudbury.ca

This letter is a follow-up to previous correspondence dated November 30, 2005 and January 12, 2009 (copies attached) regarding the illegally constructed entrance off Barrydowne Road.

Our records indicate that the City removed the driveway on June 23, 2009 in accord with our correspondence on January 12, 2009. A billing advice was sent to the above-noted address on October 5, 2009. The illegal driveway was re-established the following day.

We kindly ask that you remove the illegal entrance, culvert and reinstall the swale to its pre-existing state (constructed to a 3:1 slope) prior to September 7, 2010.

It should be noted that By-Law 73-204 states that "any person convicted of a breach of any of the provisions of this By-law shall forfeit and pay, at the discretion of the convicting Judge, a penalty...exclusive of costs". While the City would prefer to keep this matter out of the court system we are advising at this time that legal action could result in additional costs to yourself.

Thank you for your anticipated cooperation. Should you have any questions or concerns in this matter please contact the undersigned at 674-4455 extension 3614.

Yours truly,

A handwritten signature in black ink, appearing to read 'Tony De Silva'.

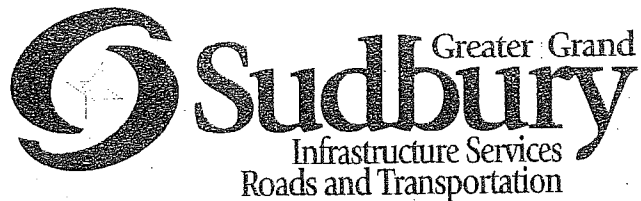
Tony De Silva, P.Eng.
Operations Engineer

TDS/tsk

Attachments

c.c. Roger Leblanc, By-law Enforcement Officer
Dave Brouse, By-law Enforcement Officer
Robert Falcioni, Director of Roads and Transportation
Nathalie Mihelchic, Manager of Operations
Larry Blanchette, Section Superintendent

City of Greater Sudbury
Ville du Grand Sudbury



ORDER TO COMPLY

Issued pursuant to Section 20(8) of City of Greater Sudbury By-law #2011-219, and pursuant to Section 20 of City of Greater Sudbury By-law #2011-220

May 17, 2013

PO BOX 5000 STN A
1800 FROBISHER STREET
SUDBURY ON P3A 5P3

CP 5000 SUCCA
1800, RUE FROBISHER
SUDBURY ON P3A 5P3

Henry Lische,
Nancy Belinda Lische
1441 Redfern St
Sudbury, ON P3A 3S8

Dear Henry Lische and Nancy Belinda Lische,

311
705.671.2489

www.greatersudbury.ca
www.grandsudbury.ca

**RE: Drain Obstruction and Illegal Private Entrance
Contraventions of the Road Fouling By-law and Private Entrance Bylaw
at 1441 Redfern Street, Sudbury, Ontario**

Being the said owners of the property at 1441 Redfern St, Sudbury, the open ditch along this property along Barry Downe Rd has been altered, and is adversely affecting neighboring properties. A ditch is an important component of roadside drainage. Also approval was not given to have a private driveway entrance along Barry Downe Rd, yet you have created the illegal driveway entrance.

You are hereby required to reinstate the ditch and remove the illegal private driveway entrance along Barry Downe Rd following the guidelines of a Road Occupancy Permit which must be obtained by application (enclosed) and payment to the Development Approvals Department located on the third floor of Tom Davies Square, 200 Brady Street, Sudbury, (telephone 311), and follow these requirement timelines:

Apply for a Road Occupancy Permit immediately, and pay the permit fee no later than May 24, 2013. As per the permit guidelines, you or your contractor reinstate the open ditch and remove the private driveway along Barry Downe Rd, with all work to be completed by June 7, 2013.

Please be advised that interfering with the ditch is in contravention of the Road Fouling By-Law #2011-219 of City of Greater Sudbury Section 19(3):

No owner of property shall, or shall permit or authorize any person to alter, fill, block, interfere with, obstruct or cause or contribute to the obstruction of a drain within the limits of a highway, or to the lot grade such that the flow of storm rain, ground, surface or subsurface water is increased, impaired or deviates from the existing drainage pattern or approved grading and drainage pattern

Also please be advised that creating an illegal driveway entrance in contravention of the Private Entrance By-Law #2011-220 of City of Greater Sudbury Section 5(1)(b):

No owner shall construct, relocate, alter or close a private entrance, or authorize or cause a private entrance to be constructed, relocated, altered or closed without first obtaining ... a road occupancy permit in accordance with the provisions of the City's Road Occupancy By-law.

Remediation by City states, as per Section 21 of By-Law #2011-220:

Where the owner fails to comply with the requirements of the Order under Subsection 18(1) within the time period specified in the Order, the General Manager may cause such work to be done or take such steps as are necessary to meet the requirements of the Order, and the cost thereof including interest thereon at the rate of 15% , from the date the costs were incurred until payment in full, may be recovered from the owner by action or by adding same to the property tax rolls for the property owned by the owner and collecting them in the same manner as property taxes.

Similar Remediation by City with By-Law #2011-219 Section 20 as stated above.

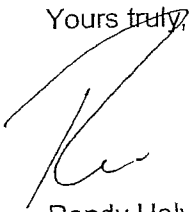
Enforcement as per Section 22(1) of By-law #2011-219 and of By-Law #2011-220 states:

Every person who contravenes any of the provisions of this By-Law... is guilty of an offence and on conviction is liable to a fine (up to \$5000.00) as provided for in the Provincial Offences Act.

There must be compliance with the requirements of this Order before this date, June 7, 2013, otherwise the City will reinstate the open ditch at a cost that will be payable by you collected on your property taxes as per authority stated. As well legal action will be instituted and fines under both By-laws, with charges laid to both owners on title for failing to comply to the Order.

Thank you for your anticipated cooperation. Should you have any questions please contact the undersigned at 705-674-4455, extension 3631.

Yours truly,



Randy Halverson,
Manager of Operations

RH/tr

Encl.

cc: Tina Romanyszyn, By-Law Enforcement Officer
David Shelsted, Director of Roads and Transportation
Michael Kolanko, Southeast Section Superintendent
Tony De Silva, Operations Engineer
Tony Cecutti, General Manager of Infrastructure Services

Miller, Maki LLP

Barristers and Solicitors
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ALEXANDRE R.J. CAZA
MEAGHAN R. BOISVERT

176 ELM STREET
SUDBURY, ONTARIO
P3C 1T7

TEL: (705) 675-7503
FAX: (705) 675-8669

IN REPLY PLEASE REFER TO: **ALEXANDRE R.J. CAZA**

June 4th, 2013

Tony DiSilva
City of Greater Sudbury
1880 Frobisher Street
Sudbury, ON

FAX TO: (705) 560-6109

Dear Sir:

Re: Henry Lische - 1441 Redfern Street, Sudbury, ON, P3A 3S8

Further to our telephone conversation of earlier today, this will confirm that you will be granting an extension from June 7, 2013 to June 21, 2013 to complete the work on the property.

In the interim, our client will take steps to apply to the City for the Entrance Permit and if unsuccessful, we will have to re-evaluate the situation.

Please do not hesitate to contact the undersigned if you have any questions or concerns.

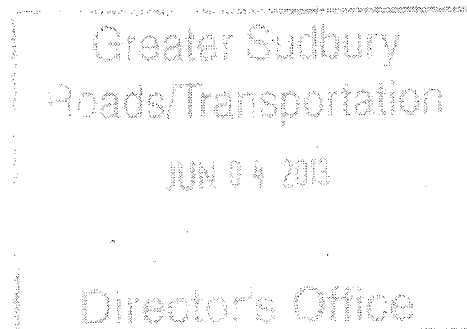
Yours very truly,

MILLER, MAKI LLP

ALEXANDRE R.J. CAZA

B.A., LL.B.

ARC/dg





Application for Driveway Entrances

Fee \$63.00

Application Number: D 1 3 - 0 0 4 5

Date of Application: June 5/2013

Applicant Information:

Applicants Name: Henry Lische

Street Number: 1441

Street Name: Redfern

Town: Sudbury

Postal Code: P3A 3S9

Phone number:

Property Description:

House Number: 1441

Street Name: Redfern

Community: Sudbury

Legal Description:

Township: McKim

Lot: 1

Con: 6

Plan: M562

Lot/ Part L 22

Parcel Number 28104

Project Information:

Type of Driveway: New Entrance

Application received through Committee of Adjustment ☐ Yes ☒ No

Application Number: B

Request: 2nd entrance off Barrydowne Road

Inputted by: Raymond Chevette

Owner Signature:

Date:

Plan Attached: ☒ Yes ☐ No

Office Only

Development Approvals:

Permit Paid: ☒ Yes ☐ NoPayment Method: ☒ Cash ☐ Cheque ☐ DebitReceipt: ☒ Yes ☐ No

Office Only

Development Engineering:

Application has been:

☐ Approved

Date:

☒ Not approved

Date:

June 6, 2013

Authorized by:

Christian Trueman

- ☐ The maximum width of a driveway must not exceed 6.1 m (20.0').
- ☐ The driveway must be constructed onto the private property which is gaining road access and must extend to the required legal parking space(s).
- ☐ The driveway must tie into the existing public roadway at an angle of not less than 70 deg. and is to maintain this alignment for a minimum distance of 6.1 m (20.0').
- ☐ The diameter of the new culvert(s) to match the larger of, the up-stream or down-stream culvert diameter but is not to be less than 450mm (18") in diameter.
- ☐ Follow the attached specifications on sight lines and the pertinent portions of the City Standard GSSD-303.020
- ☐ This application / proposal must be approved by the City of Greater Sudbury Planning Section
- ☐ If the use of this driveway ever changes from this proposed intent, the City reserves the right to have the property owner physically close it at it/his / her expense.
- All existing driveways to this property must be physically closed to vehicular traffic including removal of any culverts and its backfill, depressed curb, gutter, sidewalk etc. as well as any replacements as deemed necessary by City staff. These must be carried out at the serviced property owner's expense as soon as this new driveway is operational.
- ☐ Maximum grade on driveway is not to exceed 10%
- ☐ Road Occupancy Permit required if privately installing driveway entrance culvert. Permit fee \$34.00 (2012)
- ☐ The maximum length of entrance culvert not to exceed 9.1 m (30.0').

Note: These stipulations pertain only to the portion of the driveway which is located within the City of Greater Sudbury's right-of-way

Comments:

No second driveway permitted

Office Only

Roads and Transportation:

Application has been:

☐ Approved

Date:

☐ Not approved

Date:

Authorized by:

- ☐ Applicant is to remove all necessary vegetation, earth and rock (located on the right-of-way of the road and/or on your property) which does not allow a driver to see headlights from any oncoming vehicle proceeding along the roadway on either side of the proposed driveway.
- ☐ Attached remarks

Note: These stipulations pertain only to the portion of the driveway which is located within the City of Greater Sudbury's right-of-way

Comments:

PERSONAL INFORMATION collected herein is collected under the authority of the Municipal Act, 2001, S.O. 2001, c. 25, for the purposes of assessing entitlement to and compliance with a Private Entrance Permit, in accordance with a municipal bylaw. Questions can be directed to the City of Greater Sudbury's Freedom of Information Co-Ordinator at Tom Davies Square, 200 Brady Street, P.O. Box 5000, Stn A, Sudbury, Ontario, P3A 5P3, or by phone at 3-1-1.

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**SCHEDULE A
TO BY-LAW 2011-220**

GUIDELINES FOR APPROVAL OF PRIVATE ENTRANCE

The following guidelines apply to private entrances:

1. The proposed location of the entrance should meet the minimum stopping sight distance as established from time to time by the Transportation Association of Canada, (TAC) for the design speed on the highway abutting the property for which the entrance permit is sought. Sight distance are to be measured in accordance with the TAC Manual guidelines then in effect.

Sample Design Speeds and Stopping Sight Distances
are set out below for road grades of less than 3%

Design Speed in kilometres per hour	Stopping Sight Distance in metres, rounded to the nearest metre
40	45
50	65
60	85
70	110
80	140
90	170
100	210

NOTE 1: in circumstances where the grade of the highway abutting the land to which the application applies is equal to or exceeds 3%, the minimum stopping sight distance should be adjusted in accordance with the TAC Manual

NOTE 2: the Applicant is responsible to remove from time to time, any vegetation, earth, rock or other obstacle necessary to maintain the minimum stopping sight distance on wet pavement in accordance with the TAC manual

2. The private entrance should not result in a contravention of the City's Official Plan or Zoning By-law then in effect for the land to which the application for the Driveway Permit applies. The following notations are included for assistance in issuing permits only and are not intended to be an all-inclusive listing of prohibitions:

- (a) the entrance should not be located within the sight triangle as defined in the City's Zoning By-law;
- (b) the entrance to a property in a residential zone should not result in more than 50% of the front yard being used for parking;
- (c) the entrance should not result in front yard parking contrary to the zoning for the property;
- (d) the entrance to a property in a residential zone which has less than 30 metres frontage, should not result in the property having more than one entrance;

NOTE: the Official Plan requires that entrances onto arterial roads be strictly regulated and kept to a minimum. Whenever property has frontage along more than one roadway, access will generally be limited to the lowest volume road

3. The sketch forming part of the application for the entrance permit should disclose that the entrance will be constructed in accordance with the City's Standard Drawings (GSSD – 303.020 & 350.010) as amended or replaced from time to time; and

4.(1) Subject to Subsection 4(2), the private entrance to a property in a residential zone should not be less than 3 metres in width and not more than 6.3 metres in width, measured at the street line.

(2) Despite Subsection 4(1) the private entrance to a property with a single detached dwelling with a shared entrance way may be in excess of 6.3 metres in width, provided the entrance does not exceed 10 metres in width.

5. The private entrance to a property zoned for commercial, industrial, agricultural uses should not exceed 9.1 metres in width;

6. The private entrance to a property should not have a grade in excess of 10% at any point.

7. The centerline of a private entrance should intersect the centerline of the roadway as nearly as practicable at a right angle, but in no case should the acute angle between the centerline of the private entrance and the centerline of the roadway be less than 70 degrees.

8. No private entrance permit should be issued where the General Manager, in his sole discretion determines that the private entrance as set out in the application would be likely to:

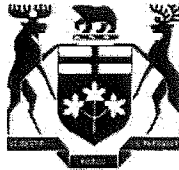
- (i) result in undue interference with the safe movement of public traffic, pedestrians or other users of the abutting highway; or
- (ii) create hazardous conditions due to inadequate sight distance, horizontal or vertical alignments or other considerations.

9. One additional entrance should be permitted to access a farm or field on a parcel of land zoned for agricultural use only where evidence is provided that the said property is being used for agricultural purposes.

10. A non-conforming entrance should not be approved unless in the circumstances a conforming entrance is not possible.

ISSUE DATE:

September 10, 2013



PL130509

**Ontario
Ontario Municipal Board
Commission des affaires municipales de l'Ontario**

IN THE MATTER OF subsection 53(19) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant and Appellant:	Thomas Grylls
Subject:	Consent conditions
Property Address/Description:	3421 Regional Road 15
Municipality:	City of Greater Sudbury
Municipal File No.:	B0028/2013
OMB Case No.:	PL130509
OMB File No.:	PL130509

APPEARANCES:

Parties

Counsel*/Agent

The City of Greater Sudbury

S. Watt*

Thomas Grylls

J. Grylls

DECISION DELIVERED BY BLAIR S. TAYLOR AND ORDER OF THE BOARD

INTRODUCTION

[1] Thomas and Jeannine Grylls (the "Owners") own approximately 10 acres (4 ha) at 3421 Regional Road 15, being part of Township Lot Number 2, Concession 5, in the City of Greater Sudbury ("the Subject Lands"). They had proposed to sever the Subject Lands into two parcels each containing about 5 acres (2.02 ha). The application was approved subject to some 10 conditions of approval. The Owners appealed to the Board with regard to two of the conditions of approval. The Board heard the matter on August 14, 2013.

BACKGROUND

[2] The Owners purchased the Subject Lands in 1968 and have resided there since 1973. Thomas Grylls has been retired for fourteen years. The plan for the future was

for the Owners to sever the property and create two lots: the Owners would continue on the retained lands with their existing house and they would transfer the severed parcel to their son Jacques Grylls, who would relocate to the severed parcel and be closer to his parents. While the consent was approved, there were two conditions of approval that the Owners felt created an undue hardship: that they would have to apply for another consent to create a permanent right of way for a new mutual driveway to be located on the mutual property line, and close off the existing (driveway) entrance to their existing house. As their garage was located on the north side of the house, and the mutual property line was to be about 155 feet (48 m) to the south, the Owners felt that these conditions would effectively remove their front lawn, create a burden for snow clearing during the winter months, and was unreasonable in light of the existing conditions on Regional Road 15.

DECISION

[3] For the reasons set out below, the Board dismisses the appeal by the Owners.

CONTEXT

[4] The Subject Lands are designated in the Official Plan of the City of Greater Sudbury (the "City") as part of the Agricultural Reserve, and zoned Agricultural. Under this designation and this zoning, the minimum lot size is 30 ha (74 acres). Thus the Owners first had to apply for an Official Plan Amendment and a Zoning By-law Amendment ("OPA/ZBA").

[5] Following the Owners' application for the OPA/ZBA, the City circulated the application for agency comments. The Planning Department recommended against the OPA/ZBA as it was their opinion that it was inconsistent with the Provincial Policy Statement as it related to the long term protection of prime agricultural lands and that new residential lots were not permitted, and also contrary to the Official Plan policies against the creation of additional non-farm uses in the Agricultural Reserve which potentially could limit expansion of agricultural operations in the area.

[6] Other comments included a recommendation from the City's Roads and Transportation Services that if approved, when the severance came forward that as a

condition of approval, the existing entrance on the north side of the property be closed and a new entrance created on the proposed severance line to service both properties.

[7] Notwithstanding the staff recommendation to deny both the OPA and the ZBA, City Council approved the application, and on a site specific basis exempted the Subject Lands from the policies of the Official Plan and allowed the Subject Lands to be severed into two parcels, each having a lot area of approximately 2 ha, and similarly amended the Zoning By-law.

[8] As both the OPA and ZBA were not appealed, they came into full force and effect, and the Owners then applied for the severance, which was granted subject to the following conditions of approval that are contested by the Owners:

4 That prior to the issuance of a Certificate, the owners/applicants apply for and receive a driveway entrance permit for a shared driveway that shall be centered on the proposed lot line and also, close off the existing entrance located on the retained land to the satisfaction of the General Manager of Infrastructure

5 That the owners/applicants apply for and receive final approval for a consent for a right-of-way over a 10.0 m (32.81ft) wide section to be centered on the proposed lot line, for the purpose of a shared entrance. The right-of-way certificate shall be incorporated into the certificate herein and issued as one certificate.

[9] The Owners submitted that since the existing garage is on the north side of the existing house, that closing off the existing driveway would result in a driveway that was 48 m long, encompassing most of the front lawn of the existing home. This lengthy driveway would require extensive snow clearing in the winter, and it was their preference to retain the existing driveway and have the Board effectively approve a new one for the severed lot.

[10] This, they indicated, would be appropriate in the circumstances as there were no residential entrances on the opposite side of the road. The speed limit had recently been reduced to 60 km per hour, and there was adequate distance to the corner north of the Subject Lands. They did not foresee any other new driveways being added in the future, and the conditions as set out in the Consent decision, if implemented, could affect resale values.

[11] The City's evidence came from land use planner, Glen Ferguson and the Director of Road and Transportation Services, David Shelsted.

[12] The City's Official Plan, Mr. Ferguson noted, provided that one of its objectives for Transportation was to ensure the transportation network provide safe, convenient and efficient movement for all people and goods in Greater Sudbury. This objective is further refined in the road classification table where Regional Road 15 is a secondary arterial and that access from adjacent property is strictly regulated and kept to a minimum.

[13] Mr. Ferguson noted that while staff had recommended against the OPA/ZBA, and City Council had approved the OPA/ZBA, that Council had not included anything in its decision to alter the staff recommendation with regard to the shared driveway conditions that had been recommended by staff. He took the Board to the OPA and the ZBA and highlighted the fact that they only provided for the creation of two lots, but did not address the staff recommendation concerning a mutual driveway for the two lots.

[14] Mr. Shelsted indicated that Regional Road 15 at this location was a two-lane road. It currently had a 60 km per hour speed limit. It connected Val Caron and Chelmsford. He noted that Regional Road 15 was formerly Highway 64 and had been designed with a higher design speed than currently in use. It had been 80 km per hour in 2007, and Council, against the recommendation of staff, had reduced the speed limit to 60 km per hour in 2007. He noted that at the present time the 85th percentile of speed on the road in this section was still above 80 km per hour.

[15] He noted that the existing driveway was located 45 m south of the commencement of the curve in Regional Road 15. The recommended distance is 150 m from the commencement of the curve.

[16] Mr. Shelsted stated that the purpose of the conditions was to try and simplify the driving tasks on Regional Road 15 and have fewer points of potential conflict. This was important as a new mine had commenced in the area, and during the day the haulage route was along this section of Regional Road 15.

[17] In his opinion the conditions of approval would reduce the number of driveways onto this section of Regional Road, would provide a safer location for the proposed driveway and recommended the dismissal of the appeal against these conditions of approval.

DECISION

[18] The Board is required to have regard for the decision of municipal council, which it has done, and notes that no provision was made with regard to driveway access.

[19] The Board has considered s. 51(24) of the *Planning Act* and finds that the health, safety, and convenience of the present and future inhabitants of the City must be considered. In this regard the Board prefers the evidence of Mr. Shelsted that a mutual driveway on Regional Road 15 in this location would be safer for the travelling public, as it would remove the existing driveway located 45 m from the commencement of the curve.

[20] The Board notes that historically this Regional Road was a Provincial Highway, with a design speed in excess of the now posted 60 km per hour. The evidence is that the 85th percentile of drivers still exceeds 80 km per hour on this section of road. Thus, it is in the public interest for the City to seek to eliminate potential areas of traffic conflict.

ORDER

[21] The Board orders that since the Official Plan directs that access from adjacent lands shall be strictly regulated and kept to a minimum, the Board finds that the appealed conditions of approval are reasonable and appropriate in the circumstances, and dismisses the appeal.

"Blair S. Taylor"

BLAIR S. TAYLOR
MEMBER

M-562

M-562

M-562
DUPLICATE

PLAN AND FIELDNOTES
OF SUBDIVISION OF
PART OF LOT 1, CONCESSION VI

TOWNSHIP OF M'KIM
DISTRICT OF SUDBURY

SCALE 1"=100'

H. R. MAHER S.L.S. DECEMBER 1959

