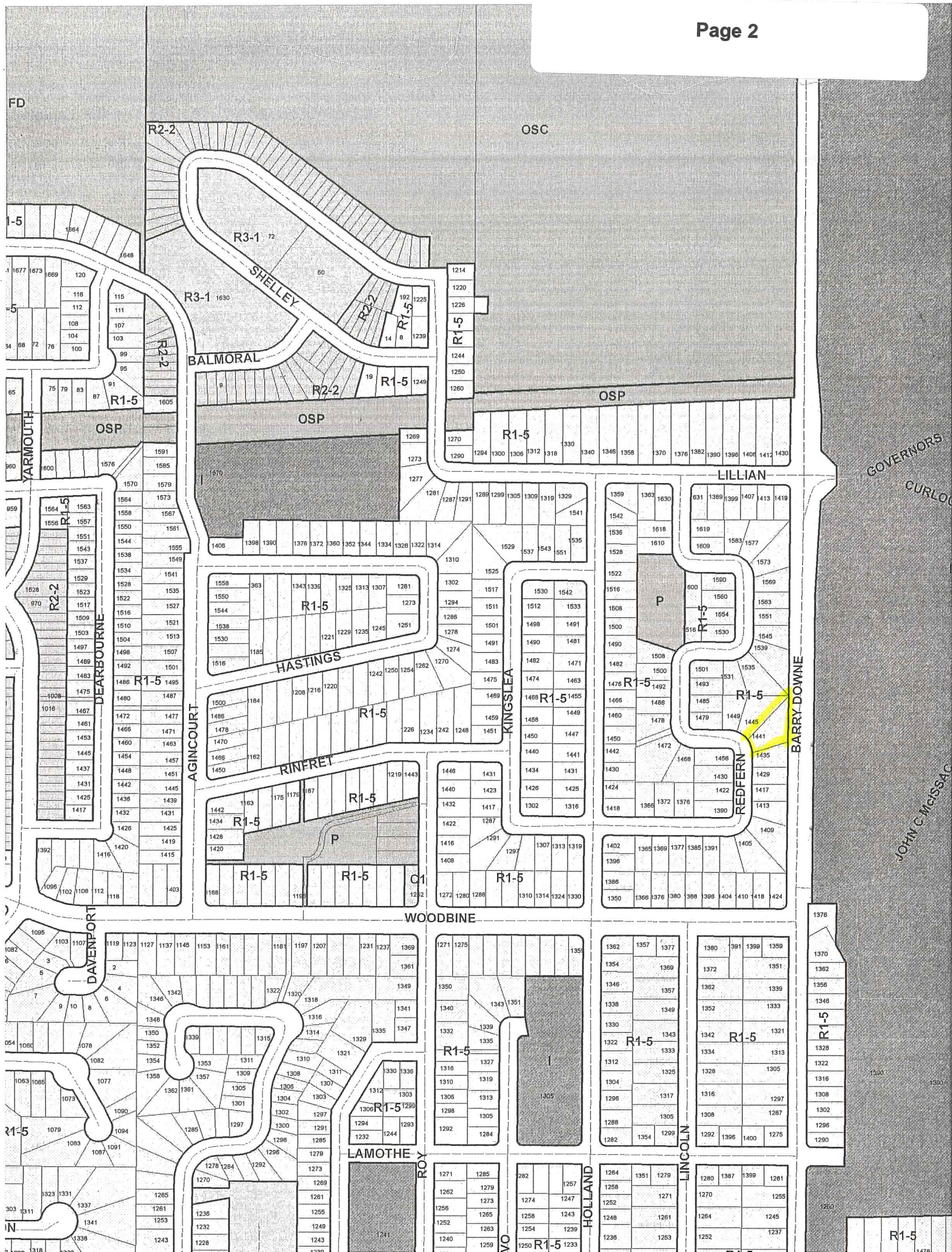


<b>Appendices – 1441 Redfern Street, Sudbury</b>		
	<b>Description</b>	<b>Page #</b>
<b>1</b>	<b>Location Map</b>	<b>1</b>
<b>2</b>	<b>Zoning Map</b>	<b>2</b>
<b>3</b>	<b>Building Permit Application</b>	<b>3</b>
<b>4</b>	<b>Building Permit</b>	<b>4</b>
<b>6</b>	<b>Roads and Drainage Section comments for Building Permit Application</b>	<b>5 - 6</b>
<b>7</b>	<b>Site Inspection Request</b>	<b>7</b>
<b>8</b>	<b>Record of Telephone Call (November 30, 2004)</b>	<b>8</b>
<b>9</b>	<b>Letter dated November 30, 2005 to Mr. Henry Lische – Filling of Roadside Ditch and Creation of Entrance at the Rear of 1441 Redfern Street</b>	<b>9 - 10</b>
<b>10</b>	<b>Letter dated January 19, 2009 to Mr. Henry Lische – Filling of Roadside Ditch and Creation of Entrance at the Rear of 1441 Redfern Street</b>	<b>11</b>
<b>11</b>	<b>Letter dated January 12, 2009 from Mr. Henry Lische – Filling of Roadside Ditch and Creation of Entrance at the Rear of 1441 Redfern Street</b>	<b>12</b>
<b>12</b>	<b>Letter dated August 20, 2010 to Mr. Henry Lische – Removing Illegal Entrance, Culvert and Reinstalling Swale at 1441 Redfern Street</b>	<b>13</b>
<b>13</b>	<b>Letter dated May 17, 2013 to Mr. Henry Lische – Drain Obstruction and Illegal Private Entrance, Contraventions of Road Fouling By-Law and Private Entrance By-Law at 1441 Redfern Street</b>	<b>14 - 15</b>
<b>14</b>	<b>Letter dated June 4, 2013 from Alexandre R.J. Caza, Miller, Maki to Tony DeSilva, Operations Engineer</b>	<b>16</b>
<b>15</b>	<b>Application for Driveway Entrance</b>	<b>17 - 21</b>
<b>16</b>	<b>OMB Hearing – Grylls vs. City of Greater Sudbury (September 10, 2013)</b>	<b>22 - 26</b>
<b>17</b>	<b>Copy of Registered Plan M-562 (Plan of Subdivision)</b>	<b>27</b>









**PERMIT APPLICATION  
BUILDING SERVICES**

APPLICATION FOR A BUILDING PERMIT

Page 1

Project No: 02-0396 Date of Application: 30-Apr-2002  
Purpose: Const DET GARAGE Single Family for estimated cost \$24,400.00  
1441 REDFERN ST Sudbury Zoning: R1

MCKIN 06 L1 Reg Plan M562 Lot 22 Ref Plan  
Part: Parcel PIN:  
Roll No.: 5307-030-019-02600-0000 Land Use: SINGLE FAMILY HOME  
Registered LISCHÉ, HENRY Contact:  
Owner: Home: (705) 566-0913  
1441 REDFERN ST  
SUDBURY ON P3A-358 Work: (705)  
Applicant: LISCHÉ, NANCY Contact: NANCY  
(705) 566-0913  
1441 REDFERN ST  
SUDBURY ON P3A-358

Contractor: Not Applicable  
Engineer: Not Applicable  
Architect: Not Applicable

Building Information: (L) Length: 40.00 Width: 30.00 Height: 13.80  
Stores: 1.0 Ground Area: 1200 Gross Area: 1200 No. of New Units:  
Front Yard: 100.0 Side Yard: 75.0 Rear Yard: 18.0 Other Side: 0.0  
Fireplaces: N Wood Stoves: N Garages: Y Site Plan: N  
Lot Information: Frontage: 30.0 Depth: 214.0 Area:  
APPLICANT TO CONSTRUCT DETACHED GARAGE. AN  
Prior to a building permit being issued, all conditions and approvals listed  
below must be completed:

City of Sudbury Roads & Drainage  
Nickel District Conservation Authority  
Structural Drawings  
Region of Sudbury Sewer and Water  
Sudbury Hydro Electric Commission

**PAID**

APR 30 2002

**BUILDING SERVICES  
SECTION**

Fee Details	Fee Charged
Building Permit Fee	288.90
Total Fee	288.90
Total Paid: \$288.90	Receipt No: 12613
	By: LANTEIGNÉ, Angela

Paid by: Balance: \$0.00

UNDER THE AUTHORITY OF THE BUILDING CODE ACT, SECTION 8(10)(b), REVOCATION OF PERMITS, YOUR PERMIT WILL BE REVOKED IF AFTER SIX CONSTRUCTION MONTHS AFTER ITS ISSUANCE, THE CONSTRUCTION OR DEMOLITION IN RESPECT OF WHICH IT WAS ISSUED HAS NOT BEEN SERIOUSLY COMMENCED.

*Nancy Lisché*  
Signature of Applicant

*Apr 30/02*  
Date

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:**

☐ 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.
 

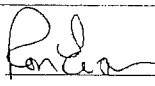
a) A City of Greater Sudbury Municipal Easement exists on the subject Property .....	Y <input type="checkbox"/>	N <input checked="" type="checkbox"/>
b) A Swale is to be Constructed within the City of Greater Sudbury Easement .....	Y <input type="checkbox"/>	N <input type="checkbox"/>
c) Lot Grading 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 <del>NOT</del> 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]

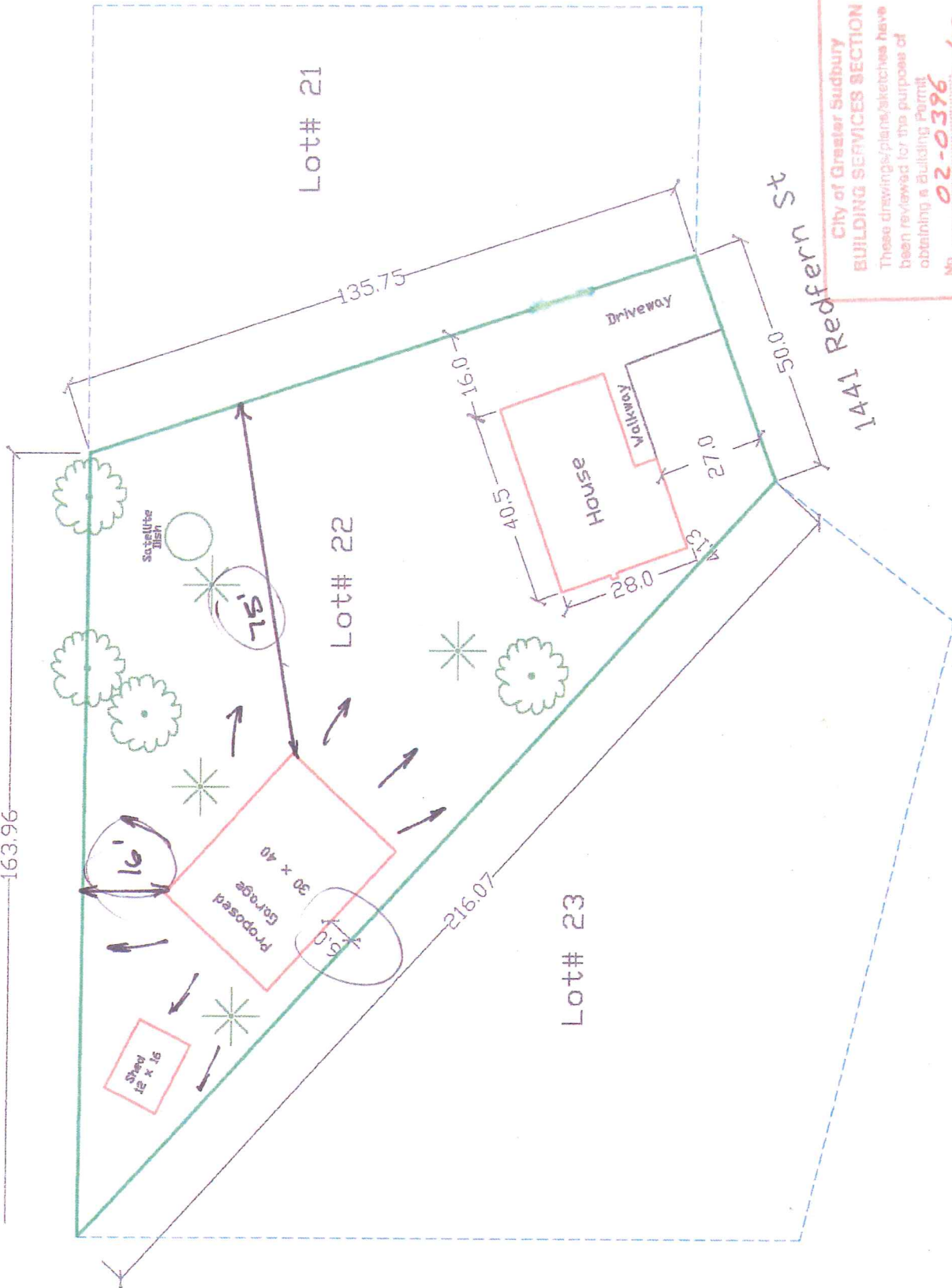
**OFFICE COPY**

*Nancy Lusk*  
 May 15/02



Barrydowne Road

163.96





# SITE INSPECTION REQUEST

DATE June 2/09

BUILDING 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 ☐ 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

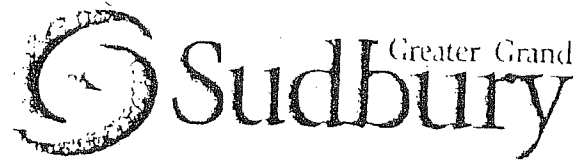
## Message Received / Transmitted:

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](http://www.greatersudbury.ca)  
[www.grandsudbury.ca](http://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."



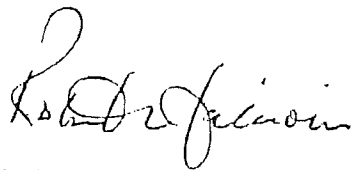
Filling of roadside ditch and creation of entrance at the rear of  
1441 Redfern Street

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

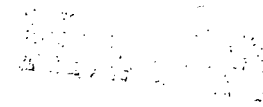
GJK/jk

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  
674-4455

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.postescanada.ca
		70 88 225 990



**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



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 SUCCA  
200, RUE BRADY  
SUDBURY ON P3A 5P3

705.671.2489  
705.360.2022

[www.greatersudbury.ca](http://www.greatersudbury.ca)  
[www.grandsudbury.ca](http://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

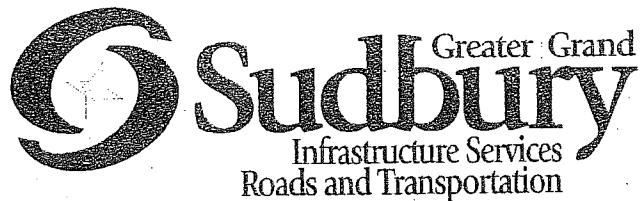
TDS/tsk

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.

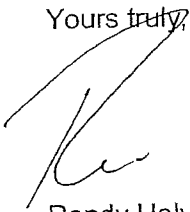
Enforcement as per Section 22(1) of By-law #2011-219 and of By-Law #2011-220 states:

*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*  
CELEBRATING 100 YEARS: 1913-2013

THOMAS E. MAKI  
CAROL L. HARTMAN  
M.J. LUCILLE SHAW  
TREVOR H. A. KESTLE  
SHANNON E. GOFFIN  
ADAM J. KOSNICK

MICHAEL P. O'HARA  
JACKIE E. McSAUGHEY-WARD  
JOHN R. SAFTIC  
GARY J. MARCUCCIO  
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 4<sup>th</sup>, 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.

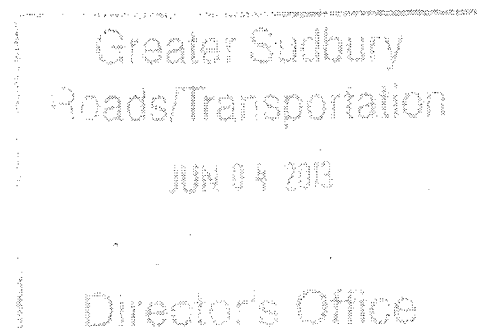
Yours very truly,

**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

RECEIVED

JUN 06 2013

City of Greater Sudbury  
Development Engineering



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:

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Northing: 5152877.7486

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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.

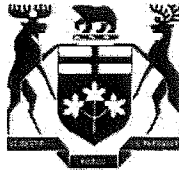
9. One additional entrance should be permitted to access a farm or field on a parcel of land zoned for agricultural use only where evidence is provided that the said property is being used for agricultural purposes.

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



ISSUE DATE:

**September 10, 2013**



Ontario

Ontario Municipal Board

Commission des affaires municipales de l'Ontario

PL130509

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 85<sup>th</sup> 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 85<sup>th</sup> 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

