

Request for Decision

Order to Remedy Appeal - ACR 763501 (2501 Blyth Road, Sudbury)

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| Presented To: | Hearing Committee |
| Presented: | Wednesday, Jun 27, 2018 |
| Report Date | Monday, Jun 04, 2018 |
| Type: | Public Hearings |

Resolution

Option One:

THAT the City of Greater Sudbury confirm the Property Standards Order to Remedy issued to the Owner of 2501 Blyth Road, Sudbury, ON, pursuant to Section 15.3(3.1)1 of the Building Code Act.

Option Two:

THAT the City of Greater Sudbury extend the time for complying with the Property Standards Order to Remedy issued to the Owner of 2501 Blyth Road, Sudbury, ON, pursuant to Section 15.3(3.1)2 of the Building Code Act.

Option Three:

THAT the City of Greater Sudbury rescind the Property Standards Order to Remedy issued to the Owner of 2501 Blyth Road, Sudbury, ON, pursuant to Section 15.3(3.1)1 of the Building Code Act.

Option Four:

THAT the City of Greater Sudbury modify the Property Standards Order to Remedy issued to the Owner of 2501 Blyth Road, Sudbury, ON, pursuant to Section 15.3(3.1)1 of the Building Code Act and that the modification be as follows:

Signed By

Report Prepared By

Tina Whitteker
By-law Enforcement Officer
Digitally Signed Jun 4, 18

Manager Review

Brendan Adair
Manager of Security and By-Law
Digitally Signed Jun 4, 18

Financial Implications

Jim Lister
Manager of Financial Planning and
Budgeting
Digitally Signed Jun 4, 18

Recommended by the Department

Kevin Fowke
General Manager of Corporate
Services
Digitally Signed Jun 8, 18

Recommended by the C.A.O.

Ed Archer
Chief Administrative Officer
Digitally Signed Jun 8, 18

Relationship to the Strategic Plan / Health Impact Assessment

This report refers to operational matters.

Report Summary

A Property Standards Order to require that drainage is contained within the limits of 2501 Blyth was issued

on November 06, 2017, pursuant to the Building Code Act, S.O. 1992, Chapter 23 as amended. The Council of the City of Greater Sudbury enacted By-law 2011-277, cited as the "Maintenance and Occupancy Standards By-law".

Greater Sudbury enacted By-law 2011-277, cited as the "Maintenance and Occupancy Standards By-law". This By-law prescribes standards for the maintenance and occupancy of properties within the City and enacted to ensure the safety of residents and the upkeep of properties to prevent the degradation of the community and neighborhoods. In receipt of a request for an appeal and failing an ability to resolve the matter, the appeal is now being brought before Committee for review and decision.

Financial Implications

There no financial implications associated with this report.

Recommendations

That the Property Standards Order to Remedy, ACR Case 763501 issued to the property owners of 2501 Blyth Road, City of Greater Sudbury, be upheld.

Background

Property Standards Order to Remedy (herein referred to as "the Order") was issued pursuant to the Building Code Act, S.O. 1992, Chapter 23 as amended, (herein referred to as "the Act").

The Council of the City of Greater Sudbury enacted By-law 2011-277, cited as the "Maintenance and Occupancy Standards By-law" (herein referred to as "the By-law"). This By-law has been passed under the authority of section 15 of the Act and prescribes standards for the maintenance and occupancy of property within the City, and has been enacted to ensure the safety of residents and the upkeep of properties to prevent the degradation of the community and neighborhoods. This By-law includes provisions relating to property conditions, and maintenance of the property in conformity with the standards required within this By-law.

The enforcement and appeal provisions of this By-law are found in the Building Code Act. It provides for inspection powers of the officer, the issuance of an Order, the establishment of a Property Standards Committee, and the procedures for an appeal of the Order. Specific time frames and methods of notification are established in the Act and the powers of the Property Standards Committee are also set out in the Act.

Facts and Evidence Supporting the Orders - Presented by Officer Tina Whitteker **See Appendix A**

Attached to this report for the Committee's review and in support of the recommendation are the following;

1. Appendix A
2. Photographs taken by Officer Whitteker: July 18, 2017 and November 6, 2017.
3. Photographs and videos taken by owner of adjacent property 2511 Blyth Rd.: photographs taken August 22, 2017 and videos of drainage recorded on August 22, 2017 and October 25, 2017
4. Copy of Property Standards Orders for Expert Examination issued November 6, 2017, to property owners of 2501 Blyth Rd., regarding case file #763501.
5. CityMap Geocortex View printout listing property owners, with insertions for ease of illustration
6. Appeal letter from property owners of 2501 Blyth Rd.
7. CGS appeal confirmation letter.
8. CGS notice of hearing letter.

Conclusion

Section 15.3(3.1) of the Building Code Act sets out the powers of the committee on an appeal of an Order. It provides to the committee the same powers and functions of the officer who made the order, and can confirm, modify or rescind the Order, and can also extend the time for complying with the order, if in the committee's opinion doing so would maintain the general intent and purpose of the by-law and of the official plan or policy statement.

This By-law was enacted to ensure the safety of residents and the upkeep of properties to prevent the degradation of the community and neighborhoods. Property owners shall maintain the property in conformity with the standards required in this By-law.

It is the recommendation in this report to uphold the Order to Remedy whereby the owners shall contain lot drainage within the limits of their premises and ensure surface water drainage is not ponding and not being discharged on an adjacent property, and complies with the maintenance and occupancy standards as set out in the CGS By-law, 2011-277 and Order to Remedy issued.

Appendix A
Property Standards Appeal Committee Report
2501 Blyth Road, Sudbury ON- ACR 763501
Prepared by Tina Whitteker

In June 2017, after receiving a complaint for roof downspouts and surface water draining onto a neighbouring property from 2501 Blyth Road, Sudbury, Officer Whitteker attempted to resolve the concerns by communicating with the property owners. However, in October 2017, the complainant notified Officer Whitteker that the draining and ponding issues were reoccurring.

On November 06, 2017, at 1525hrs Officer Whitteker attended the subject property at 2501 Blyth Road for an inspection regarding a drainage complaint in the rear yard. Officer Whitteker observed water ponding and draining into the neighbouring property.

Subsequently, Officer Whitteker issued an Order to Remedy to the property owners of 2501 Blyth Road requiring adequate surface water drainage and to ensure no water discharge onto an adjacent property.

On November 21, 2017 Officer Whitteker was contacted by Canada Paving, a contractor hired by the property owner to correct the drainage issue at 2501 Blyth Rd, requesting an extension to the timeline due to weather and soil conditions. An extension was granted until June 01, 2018 to complete the repairs outlined in the Order.

On November 29, 2017, a Letter of Appeal was received by the City as the property owner is now not willing to comply with the Order.



photo taken by
Officer Whittaker

2017/11/06 03:24:30 PM



Photo taken by
Officer Whittaker

2017/11/06 03:23:50 PM



Photo taken by
Officer Whitteker

2017/11/06 03:26:52 PM



Photo taken by
Officer Whitteker

2017/11/06 03:27:21 PM



PHOTO TAKEN 2017 08 22 OF 2501 BLYTH RD.
BY OWNER OF ADJACENT PROPERTY 2511 BLYTH RD.



PHOTO TAKEN 2017 08 22 OF 2501 BLYTH RD.
BY OWNER OF ADJACENT PROPERTY 2511 BLYTH RD.



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

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

**ORDER TO REMEDY
NON-CONFORMITY WITH STANDARDS
FOR MAINTENANCE AND OCCUPANCY OF
ALL PROPERTY**

Issued pursuant to section 15.2(2) of
The Building Code Act, S.O. 1992, chapter 23, as amended.

Case # **763501**

Date of Inspection: November 6, 2017

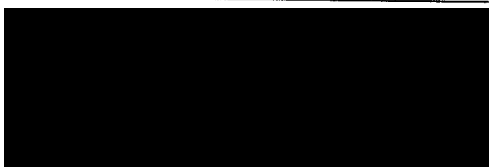
By-Law No.: **2011-277**

Municipal address or legal description of property

☒ Occupied ☐ Unoccupied

2501 BLYTH ROAD, SUDBURY, ON

Name of owners and mailing address



DESCRIPTION OF NON-CONFORMITY

LOCATION

**BY-LAW
Reference**

All yards shall be provided and maintained with adequate surface water drainage including suitable provisions for its disposal;
b. so as to prevent ponding ..

Rear yard

s. 2.06 1(b)

No roof, .. or other surface drainage, ..shall be discharged
a. on an ... adjacent property

Rear yard

s. 2.06 (2)a.

Lot drainage shall be contained within the limits of the premises from which it originated until absorbed by the soil or drained to an approved swale or ditch

Rear yard

s. 2.06 (3)

REQUIRED ACTION

Ensure your lot drainage is contained within the limits of your premises and the swale or ditch which has been created does function properly, effectively and efficiently, to ensure surface water drainage is not ponding and not being discharged on an adjacent property.

There must be compliance with the terms and conditions of this order
before this date: November 28, 2017.

TAKE NOTICE THAT if such repair or clearance is not done within the time specified in this order, the Municipality may carry out the repair or clearance at the expense of the owner. Clause 15.2 (2) (c).

APPEAL TO PROPERTY STANDARDS COMMITTEE - An owner or occupant upon whom this order has been served, if not satisfied with the terms or conditions of the order, may appeal to the Property Standards Committee by sending notice of appeal by registered mail to the Secretary of the Committee on or before November 27, 2017 and, in the event that the order is not appealed, it shall be deemed to be confirmed. Subsection 15.3 (2).

Tina Whittaker
Property Standards Officer
674-4455 ext. 4432

Date Order Served: November 6, 2017

DISTRIBUTION OF ORDER TO REMEDY* - The order shall be served on the owner of the property and such other persons affected by it as the officer determines and a copy of the order may be posted on the property. Subsection 15.2(3).

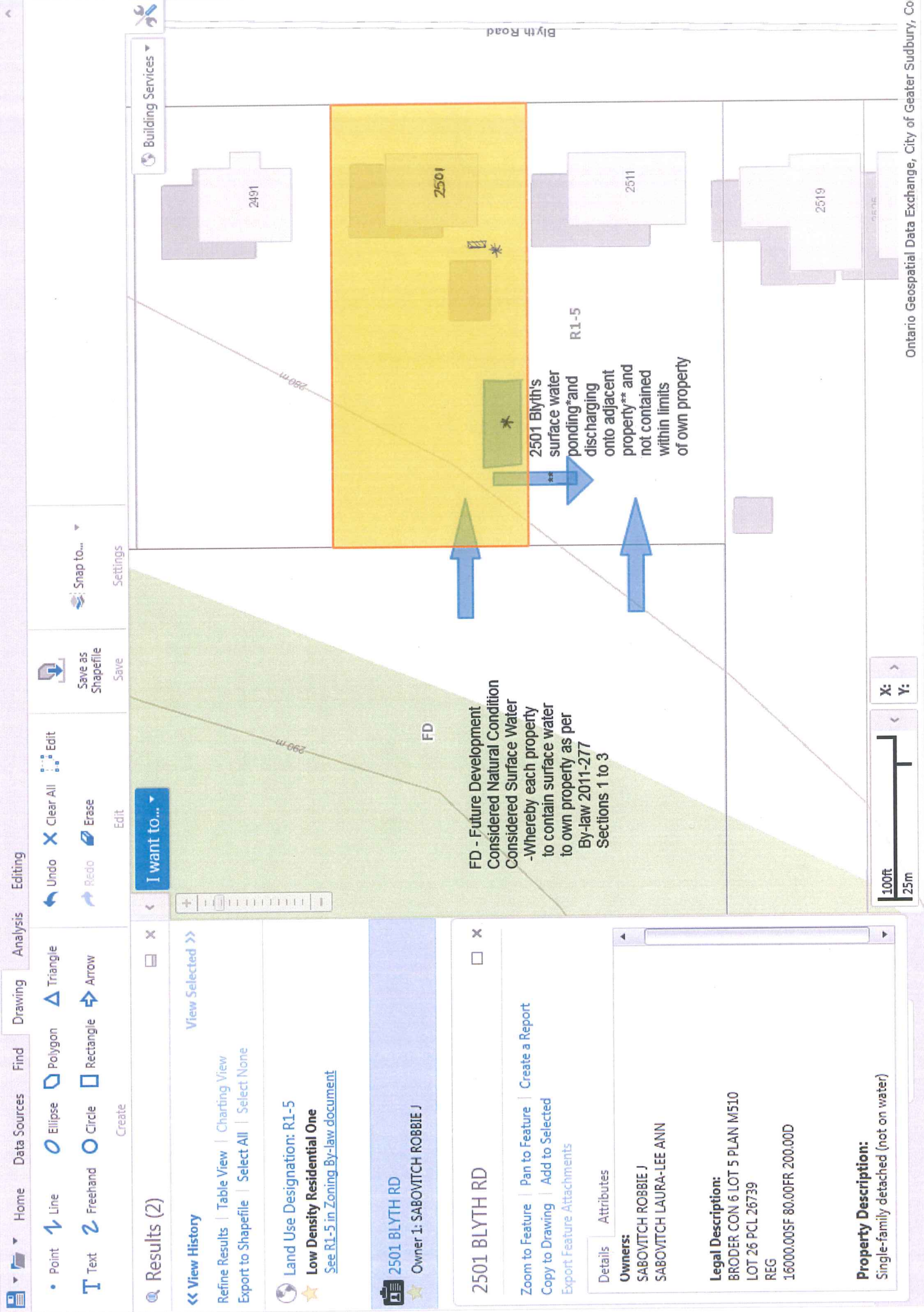
REGISTRATION OF ORDER - Where a copy of this order is registered in the proper land registry office, any person acquiring any interest in the land, subsequent to the registration of the order, shall be deemed to have been served with the order on the day on which the order was served. Subsection 15.2 (4).

OFFENCE - A person is guilty of an offence if the person fails to comply with an order, direction or other requirement made under the Building Code Act, 1992. A person who is convicted of an offence is liable to a fine of not more than \$50, 000 for a first offence and to a fine of not more than \$100,000 for a subsequent offence. Subsections 36 (1) (b) and 36 (3).

Personal information contained on this form, collected pursuant to a by-law passed under the Building Code Act, 1992 will be used for the purposes of that by-law. Questions should be directed to the Municipal Freedom of Information and Privacy Coordinator at the institution responsible for the procedures under that Act.

IN ADDITION TO THE CLEARING OF YARDS BY-LAW #2009-101, AS PER THE USER FEES BY-LAW 2017-24, FEES APPLIED TO INSPECTIONS RESULTING IN NON-COMPLIANCE OF A NOTICE: BY-LAW 2017-24, establishes fees and charges to be applied to every By-Law Officer inspection resulting in non-compliance of a Notice that is in default (past the compliance date) and during Officer attendance when a Notice is being remedied.

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|-------------------------|---------------|-----------------------------------|--------------------------|-------------|
| Original - CONTRAVENOR* | Copy - OFFICE | Copy - PROPERTY STANDARDS OFFICER | Copy - BUILDING CONTROLS | Copy- FIELD |
|-------------------------|---------------|-----------------------------------|--------------------------|-------------|



19 November 2017



Secretary of the Property Standards Committee
200 Brady Street

Re: Case # 763501 Appeal to Orders issued 6 November 2017

To the Secretary,

As outlined in the orders I received 6 November 2017, I am writing to appeal the orders issued. Since the orders were delivered, weather and ground conditions have been prohibitive. While I *have* started work to meet the conditions of the orders, it is not physically possible for me to complete the work by the deadline stipulated by the reasons mentioned. I am also now physically sick with a lingering cold from exposure to these conditions. I have engaged the contracting services of Canada Paving to complete the work, but even they have stated that it is not possible to complete the work in the time allotted. I would respectfully request that a more reasonable date be issued. This would imply sometime early summer of 2018 – once ground conditions have dried post spring thaw.

I would also like to take this opportunity to question the necessity of these orders in the first place. The source of the ground water causing the problem cuts across the back corner of my rear yard onto 2511's property from the large ridge that runs across the back of all the lots on our side of the street. This property is owned by [REDACTED]. Why does this entity bear no responsibility in this problem? I also don't believe it is fair that the current owner at 2511 can change the elevation of [REDACTED] rear yard, disrupt/block an existing drainage system that has been in place for the better part of 50 years because [REDACTED] doesn't want to maintain it and then call the city to complain about drainage problems.

I have been trying to resolve these drainage issues for years for my own sake. I consulted with City Engineering staff in August of 2015 to see what could be done. They affirmed the plans I had proposed. On November 14, 2015 a City Bylaw Officer attended my residence to investigate this same complaint. Upon going through the rear yard, the Officer indicated that: There was nothing wrong with my property's grading/ditching, that the source of the problem was [REDACTED]s property. The matter was **CLOSED**.

Early this year, I was contacted by a different Officer (by phone) in regards to ongoing disputes between myself and 2511. Part of the discussion reverted to the drainage issue. The Officer suggested that I do a few things to further facilitate drainage and thus some 'good will' towards my neighbor. The request was modest and relatively easy to do, so I agreed to do it *without* being issued orders. This Officer attended my residence at the end of July 2017 and informed my [REDACTED] that '*everything was good*' and the matter was again **CLOSED**. Now; out of the blue, the November 6th orders show up at my door. Completely unnecessary, since I have cooperated with and have worked with the city on this issue every step of the way.

I am quite willing to continue to work with the city on any reasonable solution to this problem. All I ask is that it be done fairly, responsibly and thought out. I don't think it is fair that I need to re-visit this problem every time a new neighbor moves in, or a new Bylaw Officer is assigned to the area. I would gladly speak, or meet with anyone who would like more information or clarification on the matter at hand.

Thank-you for your consideration

