



Staff Report

Report To: Dan Best, Chief Administrative Officer
From: **Mike Rolph, Chief Building Official**
Date: February 21 2022
Report: Building Services Department 02.2022
Subject: Limiting Distance Agreement between 1343877 Ontario Ltd. (Pinnacle Quality Homes Ltd.) and Municipality of South Huron

Recommendations:

That South Huron Council receive this report from Mike Rolph, Chief Building Official re: Limiting Distance Agreement between 1343877 Ontario Ltd. (Pinnacle Quality Homes Ltd.) and Municipality of South Huron; and

That South Huron Council approve the Limiting Distance Agreement; and

That the By-Law authorizing the Agreement be brought forward to Council for the required three readings.

Purpose:

Approval.

Background and Analysis:

Building permit No. 2021-220 was issued December 8th 2021 for the construction of the easterly dwelling unit (102 Rowe St.) of a five unit multi-residential building. Immediately east of this five unit multi-residential building is Block 33 which is owned by the municipality and is utilized as a municipal and public utility infrastructure (storm water, hydro) corridor.

Pursuant to the requirements of the Ontario Building Code (OBC), the building permit was issued with zero unprotected openings (windows) on the easterly face of the exterior wall due to its proximity to the property line,

which is 1 meter (3'3"). The minimum required setback with the OBC to permit unprotected openings is 1.2 meters (3'11"). As this unit is still under construction, the developer would like to add windows to the easterly wall to provide natural light to a washroom located centrally within exterior wall and two windows on either end to provide more natural light to bedrooms as well as a basement window. To achieve this request the OBC would require either one of the following: 1) provide fire protection closures for each window, or 2) enter into an agreement with the Municipality to ensure that a structure will not be constructed within 1.2 meters from the exterior face of the dwelling unit. The developer has decided to request for the Municipality to enter into an agreement. This agreement is ensuring that if a structure is constructed on Block 33, the limiting distance as stated in the agreement will be used instead of the typical property line; the difference in this particular case being 200mm (8"). As Block 33 is being utilized as an infrastructure corridor, it would be unlikely a building would be constructed on this property.

Ontario Building Code provision

To achieve compliance with the Ontario Building Code, the following provisions are required to be complied with when entering into an agreement:

Div. B. Part 9 Sentences 9.10.15.2.4 and 5:

- (4) The required limiting distance for an exposing building face is permitted to be measured to a point beyond the property line that is not the centre line of a street, lane or public thoroughfare if,*
 - (a) the owners of the properties on which the limiting distance is measured and the municipality enter into an agreement in which such owners agree that,*
 - (i) each owner covenants that, for the benefit of land owned by the other covenantors, the owner will not construct a building on his or her property unless the limiting distance for exposing building faces in respect of the proposed construction is measured in accordance with the agreement,*
 - (ii) the covenants contained in the agreement are intended to run with the lands, and the agreement shall be binding on the parties and their respective heirs, executors, administrators, successors and assigns,*
 - (iii) the agreement shall not be amended or deleted from title without the consent of the municipality, and*

(iv) they will comply with such other conditions as the municipality considers necessary, including indemnification of the municipality by the other parties, and

(b) the agreement referred to in Clause (a) is registered against the title of the properties to which it applies.

(5) Where an agreement referred to in Sentence (4) is registered against the title of a property, the limiting distance for exposing building faces in respect of the construction of any buildings on the property shall be measured to the point referred to in the agreement.

For Clarity:

Exposing Building Face means that part of the exterior wall of a building that faces one direction and is located between ground level and the ceiling of its top storey or, where the building is divided into fire compartments, the exterior wall of a fire compartment that faces one direction.

Limiting Distance means the distance from an exposing building face to a property line, to the centre line of a street, lane or public thoroughfare or to an imaginary line between two buildings or fire compartments on the same property, measured at right angles to the exposing building face.

Limiting Distance Agreement

Due to time sensitivity of this request, the by-law to authorize this agreement is provided at this meeting for Council's consideration. If Council agrees to authorize this agreement with 1343877 Ontario Ltd., the agreement will be registered on title.

Operational Considerations:

There are no operational considerations for the Corporation resulting from the proposed recommendation.

South Huron's Strategic Plan:

The recommendation(s) included in this Staff Report are not specifically related to the goals identified in the Strategic Plan.

Financial Impact:

All fees incurred in the preparation and registration of this agreement will be paid by 1343877 Ontario Ltd. There are no financial implications for the Corporation resulting from the proposed recommendation.

Legal Impact:

It is a condition of the Code that the Agreement be registered against the title of the properties to which it applies.

Staffing Impact:

There are no staffing implications for the Corporation resulting from the proposed recommendation.

Communication Actions:

There are no communication actions for the Corporation resulting from the proposed recommendation.

Policies/Legislation:

Ontario Building Code

Consultation:

Internal Staff

Legal Counsel

Related Documents:

Limiting Distance Agreement – Pinnacle Quality Homes Ltd. Municipality of South Huron

Respectfully submitted,

Mike Rolph, Chief Building Official