

Township of Southgate

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Staff Report CAO2020-065

Title of Report: Request for Second Entrance-Bob Harris Report

Department: Administration

Council Date: November 4, 2020

Council Recommendation:

Be it resolved that Council receive Staff Report CAO2020-065 as information; and
That Council consider a reconsideration of the Bob Harris entrance approval to ensure compliance with policies and to prevent future compliance issues.

Background:

The subject lands are legally described as Plan 16M35 Lot 7 and has approximately 200 ft of frontage on to Harris Crescent. The lot is approximately 1.28 acres in size. The lands are currently zoned R5 residential.

Mr. Harris has approached the Township requesting a second entrance to the property from Southgate Sideroad 41 to access a new build shop/detached garage. Public Works denied the request based on a consistent response to similar requests for a second residential entrance and because the lot is part of a plan of subdivision development that was approved. The County of Grey placed a one foot reserve on both lots of the subdivision that have frontage Southgate Sideroad 41 (formerly County Road 106) to control the number of access points onto a busy roadway.

At the August 5, 2020 Council Delegation by Mr. Harris's Planner, Don Scott of Cuesta Planning Consultants submitted the argument that the Southgate Sideroad 41 was previously a County Road and the expectation was, that the road would have a higher traffic volume and potentially a higher speed limit and therefore the one foot reserve was necessary at that time.

Since the road is now a Township responsibility Mr. Scott suggests that the one foot reserve is no longer required and a second entrance would not harm anything.

At the October 7, 2020 Council meeting the following resolutions was approved by Council:

Moved By Councillor Rice; **Seconded By** Councillor Shipston;

Be it resolved that Council receive Staff Report PL2020-062 for information; and
That Council refuse the request for a second entrance for this residential property.

Yay (3): Mayor Woodbury, Councillor Dobreen, and Councillor Shipston

Nay (4): Deputy Mayor Milne, Councillor Sherson, Councillor Rice, and Councillor Frew

No. 2020-423 **Failed (3 to 4)**

Deputy Mayor Milne moved the following motion.
Mayor Woodbury requested a recorded vote on the motion.

Moved By Deputy Mayor Milne **Seconded By** Councillor Rice

Be it resolved that Council approve Mr. Robert Harris's request for a second entrance on his residential property on Southgate Road 41.

Yay (5): Mayor Woodbury, Deputy Mayor Milne, Councillor Sherson, Councillor Rice, and Councillor Frew

Nay (2): Councillor Dobreen, and Councillor Shipston

No. 2020-424 **Carried (5 to 2)**

Staff Comments:

Some of the staff concerns and local issues raised related to entrance approval process got lost with the length of time the process took to hear from Mr. Harris and his consultant. Someone made the comment that they drove by and it looked okay. Staff are not concerned about what it looks like yesterday and today, we are very concerned about what it will look like tomorrow and how it will impact policy, future use compliance and how we will have to deal with the community concerns for future intended use by the property owner. Will the entrance permit be leverage to start the creation of a new residential lot as a person in that area believes or a place for his commercial business enterprise as a neighbour has suggested? We should determine this now and do the proper planning and not try to figure this out after the entrance is in place.

➤ **Mr. Harris contends that there is not enough room to access the back yard from Harris Crescent.**

The house has a large footprint with an angled three car garage attached to the house which meets with zoning standards. Public works have indicated that with the removal of some trees a 6m access is a sufficient width to access the back yard. We now find out that this is now a problem caused by Mr. Harris. We found out by Mr. Harris's own admission that the house was constructed 3 meters closer to the west property line than it should have been and is not in compliance with zoning. The exterior side yard zoning requirement for a rural residential lot is 6 meters (19.68 ft). Therefore, if the house was built where it should have been on a functional basis, there is no need for the requested second entrance.

Because of the inconsistency of the site information, the CAO asked CBO Bev Fisher to visit the property to look at side yard measurements on both sides of the house and the size of the garden shed since we have no permit on file for this structure. What was found is the west property setback is approximately 19.5 feet (close to 6m) with a 100 foot wide road allowance. The east property setback is 6.5 feet (2m). Since these are both too close to property line we should require a survey to verify the location of the house on the property and confirm compliance or non-compliance for the property file and future zoning compliance requests. Mr. Harris made the admission of being less than 6m so we should request he complete and pay for a survey of

as built. The existing garden shed that was constructed on the property is over the permit exemption size and was constructed without a building permit. The CBO will be contacting Mr. Harris to rectify this matter.

➤ ***Neighbour is already concerned that this will become a commercial building use.***

The property is currently Zoned R5 Residential and the uses and structures that are permitted are those of a residential type use. If this is not assured in some fashion this will become a By-law Enforcement issue either now or with future owners with a building this large in a residential backyard. We should have the question answered by Mr. Harris as to what his real plans are for intended use of a 36 foot deep wide by 45 foot long building on a residential lot when he already has a 3 car garage and a garden shed on the property.

The present zoning on these properties is R5 (rural residential) with residential estate homes being constructed that the property owners invested significant money into with the understanding and established approvals that they would not have any conflict with other commercial or industrial uses, except for abutting agriculture lands that were pre-existing to this development.

The R5 zoning only allows for a Home Occupation on the property with the following definition:

"Home Occupation" means an occupation conducted entirely within a dwelling on the same lot only by the occupant(s) of the dwelling, subject to the following conditions:

It is common knowledge in the community that Mr. Harris owns a foundation/concrete construction contractor company and is currently parking his vehicle(s) on site. Running a business on this property will become a By-law issue since this issue has already been raised and will be harder to gain compliance when a complaint is generated. As we know already, we have a neighbour concerned about this very issue and the impact it will have on their property value. Mr. Harris should be made aware of this consequence if compliance with his property zoning is not followed in future.

➤ **At the October 7, 2020 Council meeting, staff raised the issue of commercial use zoning would justify the second entrance because of increased taxation.**

What may have got missed in that discussion is the future cost of maintaining and replacing the second entrance culvert is the Township's responsibility and Southgate now takes on that responsibility based on residential taxation rates.

➤ **Mr. Scott reported in his presentation suggested "that removing the one foot reserve is no longer required and a second entrance would not harm anything".**

This is Mr. Scott's opinion and is not based on real facts or data to back up his statement or good planning rationale. Good planning is important to

eliminate or mitigate conflicts and risk before they are created. The County of Grey put the one foot reserve in place for a reason. They have this policy to manage the placement of entrances for residential properties where they are unnecessary or create conflicts. This is still a busy road and historical traffic volumes have not changed on Sideroad 41 compared to when it was a County roadway. It is important know that the road section Sideroad 39 between Holstein and Hwy #6 was converted to become the new County Road 109 because of historical higher use of the roadway and that more direct route and connection link to Mount Forest from County Road 9.

➤ **Number of entrances onto Sideroad 41 is already an issue for public safety.**

The Harris rural residential subdivision and Harris Crescent was created to allow one entrance onto Sideroad Road #41 instead of 7 residential property entrances.

At the present time there are a significant number entrance in this area already. Southgate Sideroad #41 has 15 entrances 1 km to the north and 17 entrances 1 km to the south that does not include 2 lots of record.

Southgate's Planner stated in an earlier report on this file the following:

"From a good planning principles perspective, an additional entrance along Sideroad 41 is neither desirable or appropriate. It is generally accepted that strip development is a poor form of development in the rural area largely because of the number of new entrances that it introduces along a road. More entrances on a road results in increased traffic and potential for accidents. Ultimately, increased development of this type can lead to a reduced speed limit along the roadway."

➤ **What about the future expenses to create this entrance and an agreement to address costs and concerns?**

The Township has no agreement with Mr. Harris to create this entrance because of the one foot restriction. Staff has no direction on who is to pay all the fees to deal with this transaction over and above a normal entrance permit fee and inspection. The dealing with the one foot reserve removal will have legal costs of doing the transfer, possibly a property survey and amalgamation of properties by a lawyer.

Further staff feel an agreement should include the following to provide clarity of costs because of the past history with incorrect placement of the residence on the property that is not in compliance with 6 meter setback:

- i. A detailed site plan of the new building location to ensure by-law compliance with property line setbacks and lot coverage;
- ii. Restrictions of no outside storage on the property;
- iii. Requirement to make an application for zoning change prior to issuance of entrance or building permit if the use is to be for commercial purposes; or

- iv. A residential use commitment of this new building or an acceptance that Township may act immediately to remedy the non-compliance removal of items that are not for residential uses through immediate issuance of Order and the powers of the Courts with By-law Enforcement costs to be assigned; and
- v. That Mr. Harris accepts all legal costs in relation to closing a portion or all of the one foot reserve.

➤ **Precedent versus Good Policy discussion:**

- Does Council really want every person that wants a second residential entrance to present before Council, or
- Should we be considering prescriptive policy that manages and deals with these issues with a detailed process and justification that does not create conflicts or risk.
- When we consider the amount of valuable Council time spent during multiple Council meetings to discuss and debate this file it outweighs the cost of an entrance permit.
- The issue of precedent was brought up and Township staff do not believe that precedent should be an issue in the instance as every application and request are evaluated on their own merits.
- Southgate staff also reviewed how some other Municipalities in Grey County handle multiple entrances and the municipalities of Grey Highlands, Georgian Bluffs, Chatsworth and Grey County all prohibit second entrances. West Grey, Meaford and Blue Mountains have had some requests and have a specific restriction related to the safety of the entrance.
- Should we provide more information on what Policy should look like or attach the Grey Highlands document?

Financial Impact or Long-Term Implications

The present financial impact to the municipality as a result of this report will depend the legal costs we pass on to Mr. Harris related to this entrance costs and the removal of the one foot reserve. The entrance permit fees will not cover these costs. Staff recommend an agreement to cover these expenses.

The future financial impact will depend on the type of use the property owner uses this new structure for, complaints that we may receive and the By-law enforcement requirement to gain compliance.

Communications & Community Action Plan Impact:

This report has been written and presented to Council to communicate accurate information to the public.

Concluding Comments

1. That Council receive staff report CAO2020-0065 as information.

2. That Council provide direction to staff on reconsideration of the entrance approval based on the information in this report and if we should proceed with developing an agreement with Mr. Harris to deal with costs, location of the house on the property, new building setbacks from property, compliance with out building lot coverage, future planning/zoning approvals for what he wants to accomplish and future use commitments.
3. Township staff all still agree and do not recommend that a second entrance be permitted for the following reasons:
 - i. Unless it goes through a proper process to provide zoning approval for the intended use(s) so this does not evolve into a future By-law concern.
 - ii. A normal residential use does not justify this entrance permitting, considering a 3 vehicle garage as part of the residence build and an existing garden shed that has been constructed without a permit;
 - iii. This residential subdivision was created with a crescent design to restrict the number of accesses points to Road #41 to one entrance and why the County required a one foot reserve to maintain that restriction;
 - iv. The conflict of such a large building (46' x 36') in a residentially zoned development;
 - v. The Road #41 traffic counts and the number of existing entrance in this area; and
 - vi. The precedent that this will establish for future residential second entrance requests.

Respectfully Submitted,

CAO approval: Original Signed By

Dave Milliner – CAO

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- Attachment 1 – Bob Harris property Registered Plan
- Attachment 2 – Bob Harris property Aerial Photo
- Attachment 3 – Bob Harris property Site Plan drawing