

DATE: March 8, 2021

REPORT NO: PD-27-2021

SUBJECT: Recommendation Report – Requirement of Encroachment Agreement needed for Existing Building Encroachment at 104 McMurchie Lane

CONTACT: Brian Treble, Director of Planning & Building

OVERVIEW:

- Planning Staff received word on February 25th, 2021 that there was an encroachment issue with an existing building at the above address on McMurchie Lane.
- The subject property was created by consent file B07/2009WL and heard before the Committee of Adjustment on August 19th, 2009. Conditions of Consent were cleared on March 25th, 2010. A minor variance (A15/2009WL) was approved without appeal on October 21st, 2009.
- It has been noted however that the southeast corner of the existing building actually encroaches by 0.09 m (9cm) onto McMurchie Lane. The minor variance could only recognize a front yard setback of 0 metres.
- It has been requested that this encroachment be legalized.
- It is understood that the existing building has existed for many decades and predates the creation of McMurchie Lane (street assumed by By-law 2002-07 on January 21st, 2002).
- Staff recommend that a by-law be passed to authorize the Mayor and Clerk to sign an encroachment agreement to recognize this historical situation.
- A copy of reference plan 30R-13451 is found at attachment 1, a draft authorizing by-law is found at attachment 2, and a draft encroachment agreement is found at attachment 3.

RECOMMENDATION:

1. That, Report PD-27-2021, regarding “Recommendation Report, Requirement of Encroachment Agreement needed for Existing Building Encroachment at 104 McMurchie Lane” dated March 8th, 2021, be RECEIVED; and,
2. That, a by-law be passed to authorize the Mayor and Clerk to sign an encroachment agreement to recognize the existing encroachment on Part 2, 30R13451 being Part of Lot 23, Plan M-92.

ALIGNMENT TO STRATEGIC PLAN:

Theme #3

- Strategic, Responsible Growth

BACKGROUND:

In 2009, a consent application was approved to sever the subject building, referred to as the former carriage house into a separate lot from 147 Griffin Street North and now known as 104 McMurchie Lane. 147 Griffin Street North is the current location of Smithville Chiropractic Office (formerly Hodgkins True Value Hardware, owned by the Joyner's).

The buildings in this area of town have existed for some time, and have not been formerly recognized where they encroach beyond the boundaries of their lot.

In this instance, there is an encroachment of the existing building onto McMurchie Lane. There is also an encroachment at the north side of the property caused by the neighbour to the north. Staff are told that this encroachment has already been addressed.

CURRENT SITUATION:

The subject property described as Part 2 on 30R-13451, at 104 McMurchie Lane was created as a separate parcel of land in 2009. As part of current negotiations to sell the property, it has been requested that the southeast of the existing building, where it encroaches onto McMurchie Lane by up to 0.09 metres (9 cm) be legalized by an encroachment agreement.

This is a very standard request for this type of situation and therefore staff recommend that authority be provided to the Mayor and Clerk to sign such an agreement.

FINANCIAL IMPLICATIONS:

The cost of preparing an encroachment agreement and the costs to register the agreement shall be covered by the property owner.

INTER-DEPARTMENTAL COMMENTS:

Planning staff have had discussions with the Director of Public Works, as well as, the Coordinator of Engineering Review. Both agree that recognition of this existing situation is appropriate.

Discussion has also occurred with staff in the Clerks Department and Township Legal Counsel.

CONCLUSION:

Staff recommend that authority be granted by authorizing by-law to permit the Mayor and Clerk to sign an encroachment agreement that recognizes the existing 0.09 metre (9cm) encroachment of the existing building at 104 McMurchie Lane onto McMurchie Lane.

ATTACHMENTS:

1. 30R-13451
2. Draft Authorizing By-law
3. Draft Encroachment Agreement

Prepared & Submitted by:



Brian Treble
Director of Planning & Building

Approved by:



Bev Hendry
CAO