

THE CORPORATION OF THE TOWN OF GEORGINA

REPORT NO. OID-2022-0022

**FOR THE CONSIDERATION OF
COUNCIL**

September 28, 2022

SUBJECT: ENCROACHMENT AGREEMENT FOR 65 LAKE DR E

1. RECOMMENDATION:

1. That Council receive Report No. OID-2022-0022 prepared by the Operations and Infrastructure Department dated September 28, 2022 regarding the Encroachment Agreement for 65 Lake Dr E;
2. That a by-law be passed authorizing the Mayor and Clerk to execute an Encroachment Agreement between The Corporation of the Town of Georgina and the Owner(s) of property municipally known as 65 Lake Dr E

2. PURPOSE:

The purpose of this report is to present the impacts, if any, to the operational needs of the Town with the abovementioned encroachment.

3. BACKGROUND:

The owner(s) of 65 Lake Dr E, in conjunction with Michael Smith Planning Consultants; Development Coordinators Ltd, have been working with Town staff in order to rectify existing building construction related deficiencies within the Town's right of way. An existing building, being described as the detached boathouse at 65 Lake Dr E (Lot 19), encroaches over lands not owned by the applicant, namely the Lake Dr E road allowance. Since the building encroaches over a municipal highway, the encroachment can not be rectified through the Committee of Adjustment and therefore requires support through the Operations and Infrastructure Department and ultimately Council approval for same. This support would be the execution of an Encroachment Agreement between the property owner(s) and The Corporation of the Town of Georgina.

The Intention of this Report and the proposed Encroachment Agreement referenced is to clearly identify the existing encroachment on the municipal highway that is under the jurisdiction of the Town of Georgina (Lake Dr E). The proposed Encroachment Agreement would serve to protect the interests of the Town and would serve as a registered instrument on title that would be carried through property transfer should the parcel owner(s) change. The Encroachment Agreement

would further serve as an instrument for the removal of the encroachment, if required by the Town in the future.

4. ANALYSIS:

The existing detached boathouse structure located on the lakefront parcel municipally known as 65 Lake Dr E shown in the Plan of Survey (attachment 1), encroaches the Town's right of way by approximately 0.03 square meters. In addition, other semi-permanent features currently within the right of way include a 12.6 square meter concrete retaining wall and concrete steps that cover an approximate encroachment area of 7.05 square meters. All encroachments within the Town's right of way have been identified as Part 1 on the Plan of Survey (attachment 1) dated July 13, 2021.

The right of way (Lake Dr E) is a municipal highway which is owned and maintained by the Town of Georgina. From an Operational perspective, Town staff do not see any immediate impact to the Town's maintenance operations. Given the existing edge of pavement of the traveled roadway is located more than 3 meters from the nearest encroaching feature it is not seen as a safety hazard to the public or to the natural environment and does not limit the use of public lands surrounding these features.

At this time, no addition or expansion to the building footprint is being proposed and the building permit deficiencies noted in Part 3 of this Report are primarily focused on renovations and maintenance including a new concrete slab within the building. All performed works on the structure are still subject to the approvals of any and all governing agencies including the Lake Simcoe Region Conservation Authority and the Town of Georgina's Building Department.

The Lake Drive Jurisdiction Action Plan Sub-Committee met on the proposed encroachment and unanimously agreed the encroachment did not limit any future steps as outlined in the Action Plan.

For the reasons outlined above, staff recommend an Encroachment Agreement between the Town and the Owner(s) of 65 Lake Dr E be executed.

The Encroachment Agreement (attachment 2) for 65 Lake Dr E:

Recognizes and permits the existing encroachments, requires that the owner(s) indemnify and save harmless the Town against all claims, that the owner(s) reimburse the Town for any associated expense arising from claims, permits no further encroachment, requires that the encroachment be removed in the event of destruction of the existing detached structure, at the requirement of the Town is transferable to successive owners of the property, must be registered on title at the owner's expense, does not create any vested right in the owner or occupant of the premises to which the encroachment is appurtenant, and recognises that there may be fees charged in the future if the Town decides so.

5. RELATIONSHIP TO STRATEGIC PLAN:

Engage our community & build partnerships

6. FINANCIAL AND BUDGETARY IMPACT:

There is no associated financial impact to the Town of Georgina by approving the proposed encroachment agreement.

7. PUBLIC CONSULTATION AND NOTICE REQUIREMENTS:

“Not Applicable”

8. CONCLUSION:

The Encroachment Agreement will identify the encroachments, serve to protect the interests of the Town and will serve as an instrument for the removal of the encroachment, if required by the Town in the future.

APPROVALS

Prepared by:

Reviewed by:

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Recommended By:

Michael Vos
Director, Operations & Infrastructure

Michael Bigioni
Director, Legislative Services

Approved by:

Ryan Cronsberry
Deputy Chief Administrative Officer

Attachments:

Attachment 1 – Plan of Survey Dated July 13 2021

Attachment 2 – Encroachment Agreement for 65 Lake Dr E