

Barbara and Alan Jones
101 Camperdown Road
R.R. #2
Clarksburg, ON N0H 1J0

April 6, 2011

Her Worship Ellen Anderson, Mayor
Members of Town Council
Acting CAO – Reg Russworm
Town of The Blue Mountains
26 Bridge St. E., P.O. Box 310
Thornbury, ON N0H 2P0

SUBJECT: CAMPERDOWN ROAD SOUTH - DEVIATION

Mayor Anderson, Council, and Staff:

We would like to bring your attention to the long outstanding issues of liability and safety on the deviation portion of Camperdown Road South.

After having spent yet another winter with this most unpleasant experience, we have recently been advised, once again, that our “file” has been turned over to some other Town Staff member to review.

It has always been our hope that this situation could be sorted out with the Town and their staff and an acceptable agreement reached to suit all parties. We have been working toward such a solution for more than 10 years and we are no closer now. We have sent correspondence from ourselves and our lawyer explaining the situation. We have had countless meetings with many staff members who have been assigned this “file”.

We have attended public meetings at the Town’s request to address the various issues affecting this road, and still we have no resolution.

A little History:

In 1997/98, when we purchased our property to build our home, Camperdown Road South was an unmaintained track. We were advised by the Town that it would be our responsibility to build a road on the deviation right of way which would be constructed to municipal standards as a condition of obtaining a building permit for our home. The extent of this construction was to be from the old Wyler driveway up to a point on our property where our driveway accessed the road allowance. This agreement also included building a small turnaround area for Town vehicles. We built the road to the Town specifications, who approved the work and it was turned it over to the Town to assume for three seasons.

We were advised that we would be required to sign a document placing us responsible for the “Winter Maintenance” (snowploughing...), and that we would be solely responsible for any activity occurring on this section of the road for the winter season.

While we had concerns about agreeing to this, we were advised that if we did not agree, we would not be allowed a building permit. Being new to the area, we felt that the Town was acting in good faith and that this was a normal situation.

Further, since this road was only intended for the use of our family and the 3 other properties abutting this section of road (2 of which are vacant lots...), we agreed to what we felt at that time was an acceptable risk.

This is clearly no longer the case.

Approximately 10 years ago, after we had completed the required road construction, the Town, by not pressing the case, allowed Tom Kritsch, an absentee landowner of the property to the south of ours, to build a public trail on his property. It also did nothing to stop him from widening our turnaround to put in a parking area and add a driveway to his property (without a permit). This unauthorized and poorly drained driveway and culvert has caused the Town and us to deal almost yearly with the resultant spring runoff and associated road washout problems at the top of the road on the blind corner.

Mr. Kritsch's trail was promoted to the public, throughout the Town by Mr. Kritsch, himself; by Intrawest/Blue Mountain resorts to their hotel visitors and on at least one occasion during a "Trails" meeting that we attended several years ago.

This promotion immediately resulted in increased traffic, parking problems and a serious hazard for the many hikers, bikers and snowshoers using the road.

By not insisting that this trail and public parking be closed, the Town has added to our (and their,) liability exposure.

In addition, there have been several initiatives by a number of different organizations to "formalize" a trail over this section of road allowance to connect to the Loree Loop. This has naturally been met by us with great resistance because of our serious liability concerns. This initiative is at odds with the Town's official plan which states it is not allowed to have a trail on a road for obvious safety reasons. It is our understanding that Council has committed to not allow a trail to traverse this portion of the road, a position which we fully endorse.

Throughout this time, particularly during the winter months, we have experienced being forced off the road into the ditch by other vehicles; other vehicles being stuck in the ditch and at times abandoned while blocking the road to our home; pedestrians walking in the middle of the road, very nearly being hit on at least a dozen occasions by us or our visitors, particularly on the blind hill and at the blind corner. We regularly encounter families tobogganing on the road, and more recently snowmobilers and all terrain vehicles frequenting the road.

In the other three seasons, we have experienced several very close calls with bikes racing down the hill at high speeds, 2 or 3 abreast making it very difficult to miss them on such a narrow road.

Residential Development:

Although the trail problem and the issues it created are significant, the increased residential development approved and encouraged by the Town in the immediate area, specifically across the Camperdown “flats” has exacerbated the problem significantly. The increased traffic on this section of road, from the local homeowners and their guests, or visitors looking at real estate in the area, and those just driving up to look at the view has turned our quiet dead end roadway, which ends on our property, into a busy thoroughfare. It is not uncommon to have unfamiliar traffic drive right through our gates and into our lane up to the house. This is quite disconcerting to us, as we have no idea as to who these people are or their intentions.

During our attempts to resolve these issues, we have had several disturbing discussions over the years with Town Staff. It has been suggested that we could have portions of our property expropriated to support a trail across this section of roadway

A more recent Staff “proposal” was that if we wanted to help move things along, that we talk to our neighbour to convince them to hand over a corner of his property to the Town and they would consider taking the trail out on to the 7th Line.

This manner of negotiating solutions to problems is, in our opinion, totally unacceptable.

In summary: The circumstances surrounding the original agreement have changed dramatically. We no longer have any control over what occurs on this section of roadway and this was not the original intention of this agreement.

As far as we are concerned, there are two logical and reasonable choices to resolving the current situation:

1/ The Town removes our liability and this agreement from title and assumes full responsibility for all road maintenance as it would any other local municipal road. As your winter maintenance people are aware, getting the proper equipment up and down this stretch of road in the winter months, is not a problem

OR

2/ The Town turn the road section in question over to the residents who directly abut it: The 5 families now involved are all in general agreement to condominiumizing the road, from below the “Wylers” driveway, just beyond the end of the pavement on Camperdown road.

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A decision needs to be made now by someone in authority because quite frankly we are running out of time and patience. We feel that we deserve better treatment than a 10 year stall in the face of legitimate concerns, and although we would like to avoid having to take this issue to a higher level we will be seeking legal remedies if we do not have a reasonable response by June 1, 2011.

We would be pleased to discuss this situation with you anytime after you have had an opportunity to review the details of our file. We can be reached at our office during the week at 519-893-1204 or via email aljones@globestamping.com and barbarajones@auscan.net.

We apologize for the length of this correspondence; however we wanted to make certain that the issues were properly and completely outlined so that you would have a full scope of the issue.

Thank you for your time. We look forward to your response.

Submitted with respect,

Barbara and Alan Jones

c.c. Fred Heimbecker
Heimbecker Law Offices