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STAFF REPORT: Planning & Building Services Department



REPORT TO: Council
MEETING DATE: May 6, 2013
REPORT NO.: B.13.12
SUBJECT: "The Dam Pub", 53 Bruce Street South – Noise By-law Relief Request
PREPARED BY: Sharon Long, Administrative Assistant, Planning & Building Services

A. Recommendations

THAT Council receive Staff Report B.13.12. with respect to "The Dam Pub", 53 Bruce Street South – Noise By-law Relief Request and to provide direction with respect to the request.

B. Background

The Town is in receipt of a request from the Operator of the subject premises for relief from the provisions of the Noise By-law (Attachment 1) on various dates and times similar to previous years.

By-law Enforcement did receive one complaint in 2012 and nothing so far in 2013.

Section 3 e) of the Noise By-law permits the making of noises or sounds related to the non-residential use of land permitted by a by-law enacted by the municipality pursuant to the applicable Zoning By-law from 07:00 to 19:00.

It is noted that outdoor events in themselves outside of 07:00 to 19:00 are not prohibited. The making of noise is prohibited in the instance where such events are likely to disturb the peace, quiet, comfort or repose of any inhabitant.

In accordance with the procedures set out in our Policy & Procedures for Noise By-law Relief Requests, the residents within 60 metres were circulated. This is to confirm that no responses were received from this circulation as of May 1, 2013.

C. The Blue Mountains' Strategic Plan

"Providing a strong, well managed municipal government."

D. Environmental Impacts

N/A

E. Financial Impact

N/A

F. In Consultation With

N/A

G. Attached

1. Copy of the letter from The Dam Pub.
2. Office Consolidation of the Noise By-law.

Prepared by:

Respectfully submitted,

Sharon Long
Administrative Assistant
Planning & Building

Greg Miller
Manager, Building & By-law/
CBO

David Finbow
Director, Planning &
Building Services

Noise By-law Relief Request

Event: The Dam Pub – Summer 2013 Live Music

Dates: Friday May 17th 2013 (weather permitting Victoria Day weekend)

Sunday, June 30th, 2013 (Canada Day Long weekend)

Saturdays only, from Sat July 6th – Saturday August 31st

Time: 8-10pm

Location: The Dam Pub – Patio

To: **Town of Blue Mountains Council**

With respect to The Town of Blue Mountains Noise by-law, we are asking for a variance for specific dates this summer. *See attached schedule.*

The Dam Pub is drawing musicians from all around the world as well as supporting our local musicians. The genres of music vary from traditional Celtic, R & B, Classical, Folk, Jazz & Blues. In most cases the performances are solo artist and acoustic instruments.

The Dam Pub has become a destination for food, drink, service and entertainment. Our surveys show that many folks travel from out of town and stay, shop and eat in Thornbury, building a strong partnership with our local businesses. We are proud to be a contributor to Thornbury, providing employment and stimulation to our local economy.

In respect of our neighbours, we have chosen Saturdays and a civilized 8pm to 10pm performance time. The artists chosen must fit the respectful criteria ensuring there is no loud, electronic music and voices. Our customer base is that of a mature, affluent demographic which makes for an easy going and enjoyable event for all.

We are requesting a variance in respect to the noise By-Law for the dates outlined in the attached schedule. We look forward to a positive and supportive response from Council.

Sincerely,

Stephanie Price
The Dam Pub
53 Bruce Street South
PO Box 796
Thornbury, ON NOH 2P0
519-599-2110
Cell: 519-477-9709

| DATE | ARTIST | TIME | LOCATION |
|---------------------------|---|-------------|---------------------------|
| Fri May 17th | Greg Wyard – Solo artist- acoustic guitar- classic rock/ r&b | 8-10pm | Patio- weather permitting |
| Sat June 15th | Micah O'Connell Duo guitars, acoustic folk/roots | 8-10pm | Patio |
| Sun Jun 30th | Greg Wyard – Solo artist- acoustic guitar- classic rock/ r&b | 8-10pm | Patio |
| Sat July 6 th | James Clark – Solo artist – Roots/Folk | 8-10pm | Patio |
| Sat July 20 th | Pennybrook - Duo, guitar/ wind instruments folk, roots acoustic | 8-10pm | Patio |
| Sat Aug 3 rd | Lyndon John X – 3 piece 2 acoustic guitars/ hand drums – Reggae | 8-10pm | Patio |
| Sat Aug 17 th | Leith Quartet – string quartet- traditional Celtic/classical | 8-10pm | Patio |
| Sat Aug 31 st | Bobby Dean Blackburn -solo/piano Jazz/Blues | 8-10pm | Patio |
| Sat Sept 1 st | James Clark Jones – Solo artist – Roots/Folk | 8-10pm | Patio |

CORPORATION OF THE TOWN OF THE BLUE MOUNTAINS

BY-LAW 2002 – 9

Office Consolidation
(By-laws 2002-60 & 2004-16)

Being a By-law to prohibit or regulate noises within the municipality likely to disturb.

WHEREAS Section 210 (138) of the *Municipal Act*, chap. M.45, R.S.O. 1990 and amendments thereto enables the councils of local municipalities to pass by-laws for prohibition or regulation within the municipality of noises likely to disturb the inhabitants;

AND WHEREAS section 61 of the *Provincial Offences Act*, chap. P.33, R.S.O. 1990 and amendments thereto provides for a general maximum penalty upon conviction not to exceed \$5,000.00;

AND WHEREAS it is deemed expedient to pass a by-law for the prohibition or regulation of noise within the municipality in a format that would allow enforcement by both a Municipal Law Enforcement Officer and the Ontario Provincial Police;

NOW THEREFORE the Council of the Corporation of the Town of The Blue Mountains hereby enacts as follows:

1. THAT no person shall make noise or cause noise to be made or permit noise to be made that would be likely to disturb the inhabitants of the municipality.
2. THAT for the purposes of Section 1, the following noises or sounds, among others, shall be deemed likely to disturb the inhabitants of the municipality:
 - (a) The sound or noise from, or created by, any radio, television, phonograph, or any other electronic device, or any musical or sound producing instrument of whatsoever kind when such radio, television, phonograph, device or instrument is played or operated in such a manner or with such volume likely to disturb the peace, quiet, comfort or repose of any inhabitant within, or having quiet enjoyment of the lands upon which is located, any dwelling unit, apartment building, hotel, motel, or any other type of residence.
 - (b) The yelling, shouting, hooting, whistling, singing, or any other sound made by an individual in such a manner which is likely to disturb the peace, quiet, comfort or repose of any other inhabitant within, or having quiet enjoyment of the lands upon which is located, any dwelling unit, apartment building, hotel, motel or any other type of residence.
 - (c) The operation of construction vehicles or the act of construction between the hours of 19:00 hours of any weekday to 07:00 hours of the next weekday save and except Saturday from 08:00 hours to 13:00 hours which is likely to disturb the peace, quiet, comfort or repose of any other inhabitant within, or having quiet enjoyment of the lands upon which is located, any dwelling unit, apartment building, hotel, motel or any other type of residence, unless written permission to specifically extend or alter the hereinbefore mentioned time periods has been given in writing by Council.

- (d) The sound from the operation of any powered or non-powered tool, for domestic purposes (other than snow removal) which is operated in such a manner likely to disturb the peace, quiet, comfort or repose of any inhabitant within, or having quiet enjoyment of the lands upon which is located, any dwelling unit, apartment building, hotel, motel or any other type of residence, between the hours of 23:00 hours of one day to 07:00 hours of the next day (09:00 hours on Sundays).
- (e) The persistent noise made by any domestic pet, or any animals kept for commercial purposes, likely to disturb the peace, quiet, comfort, or repose of any inhabitant in the same building or in the neighbourhood, at any time.
- (f) The grating, grinding, rattling noise or any other noise caused by a condition of disrepair or maladjustment of any motor vehicle or other vehicle whatsoever or part or accessory thereof likely to disturb the peace, quiet, comfort or repose of any other inhabitant within the municipality.

3. THAT this By-law does not affect:

- a) Any bona fide agricultural use or practice engaged in by a bona fide farmer or employee thereof.
- b) The operation of snow-making machinery or snow-grooming vehicles.
- c) The operation of snow-removal equipment.
- d) Noises or sounds authorized by the municipality. (By-law No. 2002-60)
- e) Noises or sounds related to the non-residential use of land that is permitted by a by-law enacted by the municipality pursuant to Section 34 of the *Planning Act* between the hours of 07:00 hours and 19:00 hours. (By-law 2002-60)
- f) Noises or sounds related to the non-residential use of land that is permitted pursuant to the regulations made under the *Niagara Escarpment Planning And Development Act* between the hours of 07:00 hours and 19:00 hours. (By-law 2002-60)
- g) Noises or sounds authorized by the Blue Mountain Village Association originating within the "Village at Blue Mountain" (Parts 1-40, 16R-7451) between the hours of 07:00 hours and 23:00 hours. (By-law No. 2002-60)
- h)** Noises or sounds related to the use of lands known as Part of Lot 5 and Part of Lot 6, Concession 8, Roll No.: 7-046-02, by the Blue Ridge Sportsmen's Club Inc. between the hours of 08:00 and 21:00 on any day, subject to any Provincial or Federal Statute or Regulation with regard to the discharge of firearms and/or weapons. (By-law 2004-16)

4. THAT every person who contravenes any provision of this By-law is guilty of an offence and on conviction is liable to a penalty as provided in the *Provincial Offences Act*.

5. THAT should any section, clause or provision of this By-law be declared by a court of a competent jurisdiction to be invalid, the same shall not affect the validity of the By-law as a whole or in part hereof, other than the part which was declared to be invalid.

6. THAT Township of Collingwood By-laws No. 92-28, 95-37 and 96-9, Town of Thornbury By-law No. 20A-1983 and Town of The Blue Mountain By-law No. 2000-44 are hereby rescinded and repealed.

Read a first and second time this 28 day of January, 2002.

Read a third time and passed this 28 day of January, 2002

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Ross Arthur, Mayor

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Stephen Keast, Clerk