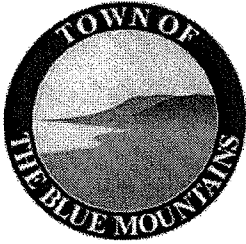


STAFF REPORT: BUILDING & BY-LAW DEPARTMENT



REPORT TO: Council
MEETING DATE: May 12th, 2008
REPORT NO.: SRB.08.20
SUBJECT: D.Q.I. (Mill Pond Homes), 59 King Street East, Request for Relief from the Noise By-law (Construction Noise)
PREPARED BY: D. Finbow, Director Bldg & B/L
Sharon Long, Admin. Assistant Bldg & B/L

A. Recommendations

THAT COUNCIL receive Staff Report SRB.08.20 and make a determination with respect to the proponent's request for relief from the Town's Noise By-law.

B. Background

The Request & Public Notice

1. The Town is in receipt of a request from the Developer/Builder of the subject development for relief from the provisions of the Noise By-law for Saturday afternoons from 1:00 p.m. to 5:00 p.m. for a two year period (Addendum "A").
2. In response to this request, Town Staff provided notice (Addendum "B") to neighbouring property owners within 60 metres of the subject property.
3. Comments to this circulation are attached for Council's information.

The Noise By-law

1. Section 3 (c) of the Noise By-law (Addendum "C") authorizes the making of construction noise on Saturday from 08:00 hours to 13:00 hours.

Previous Requests for Exception

In the past, Council has not provided relief from the Town's Noise By-law for extension of the hours related to construction noise.

Summary

1. The proponent is effectively requesting that "Construction Noise" be permitted until 18:00 hours. Town Staff are not making a recommendation to Council with respect to this request.
2. A copy of this Staff Report has been provided to the proponent.

Note: Town Staff will be reporting to the next Finance & Administration Committee with respect to an interim policy related to the processing of requests for exceptions to the Town's Noise By-law including criteria and fees for same.

Recommendation(s)

Town Staff have prepared two different resolutions (or options) for Council's consideration. In addition to these options, Council may consider other alternatives related to the cessation of the "construction noise".

C. The Blue Mountains' Strategic Plan

"Providing a strong, well managed municipal government."

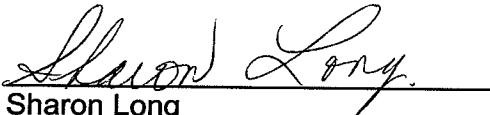
D. Budget Impact

N/A

E. Addendums

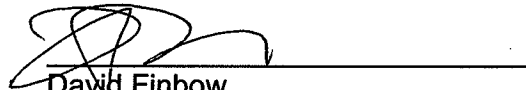
- A. Request from D Q I.
- B. Sample Notice Letter & Circulation Area.
- C. Office Consolidation of the Noise By-law.

Prepared by:



Sharon Long
Administrative Assistant, Building & By-law

Respectfully submitted by:



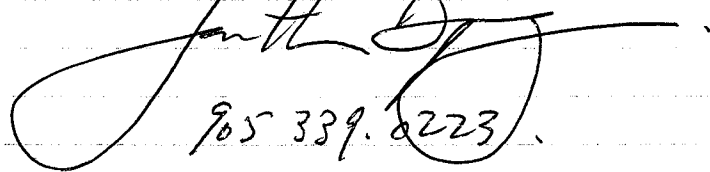
David Finbow
Director, Building & By-law

To the Town of the Blue Mountains

Dec.
Apr. 17/08.

Request for noise by-law exemption
@ 59 King St. East. from
1:00 to 5:00 on Saturdays only
for a period of 2 years.

To accommodate local trades who
can not set up and take down in
a five hour period. This allows them
to make up lost weather/days.


905 339.8223.



Town of The Blue Mountains

26 Bridge Street East
Box 310
THORNBURY, ON N0H 2P0
www.thebluemountains.ca

May 5th, 2008

HAND DELIVERED

**RE: Noise By-law Exemption Request
59 King Street East ("Mill Pond Homes")
The Blue Mountains**

Please be advised that the Town is in receipt of a request from the owner and/or operator of the subject premises for an exemption to the Town's Noise By-law. In particular, the owner and/or operator is requesting permission to:

Permit the additional making of noise on Saturday only from 1:00 to 5:00 for a period of 2 years to accommodate trades to work a full day.

This request will be considered by Town Council at its regularly scheduled meeting on May 12th, 2008 at the Beaver Valley Community Centre. If you wish to provide your comments related to this request, you can do so by delivering a letter to the Town Clerk clearly marked "Noise By-law Exemption Request – 59 King Street East" or by email to slong@thebluemountains.ca both by May 7th, 2008 and noon.

If you have any questions, please contact myself at 519.59.3131, extension 249 or slong@thebluemountains.ca.

Yours truly,

TOWN OF THE BLUE MOUNTAINS

Sharon Long
Administrative Assistant
Building & By-law

K:\BEO\2008\Noise\Residents 59 King Street East.doc

BUILDING & BY-LAW DEPARTMENT
Phone: 519-599-3131 Ext. 249
Facsimile: 519-599-6032
slong@thebluemountains.ca



Mill St

Bridge St

King St E

Mccarley St S

Arthur St E

Private Rd

4242-0000-16-045-00

4242-0000-16-043-00

60m Buffer of 59 King Street East

C.

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

.....
Ross Arthur, Mayor

.....
Stephen Keast, Clerk