Staff Report

Enforcement Services – By-law Division

Report To: Council
Meeting Date: July 15, 2019
Report Number: FAF.19.093
Subject: Winnifred’s English Pub – 27 Bridge Street East – Noise By-law Relief Request
Prepared by: Emily Beauchamp, Administrative Assistant, Enforcement Services

A. Recommendations

THAT Council receive Staff Report FAF.19.093 “Winnifred’s English Pub – 27 Bridge Street East – Noise By-law Relief Request”; and

THAT Council grant relief from the provisions of the Noise By-law for live music by a solo musician on the patio at Winnifred’s English Pub, 27 Bridge Street East from 3:00 p.m. to 9:00 p.m. on the following dates throughout the 2019 summer season:

- Friday & Saturday July 19th & 20th
- Friday & Saturday July 26th & 27th
- Friday, Saturday & Sunday August 2nd, 3rd & 4th
- Saturday August 10th
- Saturday August 17th
- Saturday August 24th
- Saturday August 31st
- Monday September 1st

B. Overview

This report provides the details of a request for relief from the provisions of the Noise By-law for Council’s consideration.

C. Background

The Town is in receipt of a request for relief from the provisions of the Noise By-law (Attachment 1) for live music by a solo musician on the patio at Winnifred’s English Pub, 27 Bridge Street East from 3:00 p.m. to 9:00 p.m. on the above noted dates throughout the 2019 summer season.
D. Analysis

Section 3e) 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.

Winnifred’s English Pub (formerly Bridges Tavern) has submitted similar requests in previous years. Most recently, their 2017 request for music until 11:00 p.m. on various dates from May through September was initially denied by Council with a request to reapply with revised dates and times. Council resolved to grant the subsequent request for live solo musicians until 8:00 p.m. on Fridays and Saturdays from June 9th through September 2nd, Sunday July 2nd and Sunday September 3rd.

Enforcement Services received two noise complaints in 2018, one music-related and one for loud voices. So far in 2019 Enforcement Services has received one noise complaint for music in the afternoon on Saturday June 29th.

In accordance with the procedures set out in our Policy & Procedures for Noise By-law Relief Requests, notice to the residents within 120 metres of the event location was circulated. Due to the timing of the application in relation to the last Council meeting on July 15, 2019, before Council’s summer break, the deadline for residents to submit comments exceeds the date of submission for this report. As of the date of submission of this report no responses were received, however, any additional information will be provided by a representative of the Enforcement Services Department at the Council meeting on July 15, 2019.

E. The Blue Mountains Strategic Plan

Goal #2: Engage Our Communities & Partners

F. Environmental Impacts

N/A

G. Financial Impact

N/A

H. In consultation with

Residents within 120 metres of property.
Rob Collins, Director of Enforcement Services/Fire Chief.
I. Attached

1. Office Consolidation of the Noise By-law.
2. Copy of the Application.
3. Map of event location and properties within 120 metres.

Prepared By,

____________________________
Emily Beauchamp
Administrative Assistant, By-law Services

Respectfully submitted,

____________________________
Rob Collins
Director of Enforcement Services/Fire Chief

For more information, please contact:
Emily Beauchamp
bylawinfo@thebluemountains.ca
519-599-3131 extension 249
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
Application for a Noise By-law Exemption
This form is authorized by By-law 2002-09
Form B.37.4

For use by Principal Authority

Application number: PLNB2019- 572
Exemption number (if different):

Date received: JULY 2, 2019
Roll number: 16- 050- 00

Application submitted to:
TOWN OF THE BLUE MOUNTAINS
32 Mill Street, Box 310, Thornbury, ON
Tel: (519) 599-3131 Toll Free: 1-866-258-6967 ext. 249
syerservices@theblue-mountains.ca www.theblue-mountains.ca

A. Event Location (Location of the event relief is being requested)

Building number, street name
Unit number
Lot/Con.
Postal code
Plan number/other description

B. Applicant

Applicant is: [ ] Owner or [ ] Authorized agent of owner

Last name: Winnifred's
First name: Rube
Middle name: Case

Street address: 27 Bridge St.
Postal code: N0H 2A0
Province: ON

C. Owner (if different from applicant)

Last name: Turner
First name: Renee

Company or partnership:

Street address
Unit number
Lot/Con.
Postal code
Province
Telephone number
Fax

D. Event Type (Other events may be considered at the sole discretion of Council)

[ ] Charitable Event [ ] Wedding/ Family Gathering [ ] Construction Related [ ] Other

E. Event Details

Event Name (if applicable):

Date of the Event: See back page

Time of the Event: 3-9 pm.

Does the Event promote charitable, educational or community objectives?

Yes [ ] No [ ]

Does the Event support the community provincially, nationally or internationally?

Yes [ ] No [ ]

Is the Event financially supported by the Town?

Yes [ ] No [ ]

Have there been any prior noise by-law infractions associated with this event?

Yes [ ] No [ ]

Description of the source of sound:

Live music on patio

Proposed provisions to mitigate impact of noise to affected residential premises:

Have only one musician. Early time frame

Reasons the noise by-law exemption should be approved (in the applicant's opinion):

Winnifred's patio is a tourist destination.

F. Declaration of Applicant (Note: if owner is not the applicant attach the "Authorization to Act as Agent" form)

Renee Turner

(print name)

I, the information contained in this application, attached schedules/studies and supporting documentation is true to the best of my knowledge. If the owner is a corporation or partnership,

Date: July 2, 2019

Note:

1. Every application for an exemption shall be submitted a minimum of four (4) weeks in advance of the proposed event.

2. Every person who contravenes any provision of the Noise By-law No. 2002-09, as amended is guilty of an offence and on conviction is liable to a penalty as provided in the Provincial Offences Act.
Dates that we would like to be exempt as follows.

- Sat July 13th.
- Fri July 19th.
  Sat July 20th.
- Fri July 26th.
  Sat July 27th.
- Fri Aug 2nd.
  Sat Aug 3rd.
  Sun Aug 4th.
- Sat Aug 10th.
  Sat Aug 17th.
- Sat Aug 24th.
- Sat Aug 31st.
- Mon Sept 1st.
Map of event property (solid) and surrounding properties within 120 metres that were sent notice of the Noise By-law relief request