



A People Place, A Change of Pace
SHELBURNE
ONTARIO, CANADA

Meeting Date: Monday, June 28, 2021

To: Mayor Mills and Members of Council

From: **Jim Moss, Director of Development and Operations**

Report: DO 2021-05

Subject: **604 Owen Sound Street, Encroachment on Municipal Property and Parking Concerns**

Recommendation

BE IT RESOLVED THAT Council receives report DO2021-05 604 Owen Sound Street, Encroachment and parking concerns dated June 28, 2021, for information purposes;

AND THAT Council directs staff to proceed with the recommendation noted in the report, to have the owner comply with the zoning by-law by not encroaching on to the town's right of way, thus providing parking for patrons on the paved area of the right of way;

AND THAT staff contact and work with the owner of 604 Owen Sound Street to bring the property into compliance with the Town's Zoning By-law #38-2007.

Background

At the September 14, 2020, Council meeting, Council members discussed parking concerns, traffic congestion and encroachment of retail product onto the municipal right of way at 604 Owen Sound Street during Council inquiries. As inclement weather was setting in it was decided to review this item in 2021 when weather conditions had improved.

Analysis

Staff have reviewed the concerns noted regarding with 604 Owen Sound Street.

By-law No. 10-1992 was passed on February 24th, 1992, to amend Zoning By-law 10-1972 to permit the following on the property at 604 Owen Sound Street:

- A restaurant and variety store with a maximum area of 111.48 square metres in the existing single detached dwelling
- Notwithstanding the parking requirements of Section 3.19 (b) Parking Area Requirements and Section 3.19(d) Ingress and Egress parking spaces for 604 Owen Sound Street for commercial uses may have direct access to Jane Street

The above special zoning was carried forward in the Town-wide Zoning By-law #16-1992 passed on May 11, 1992, the property was re-zoned to C2 when the current Zoning By-law #38-2007 was passed in September 2007. The C2 Zone permits a Food Store but does not specifically permit parking spaces for commercial uses with direct access from Jane Street; however, if direct access parking spaces from Jane Street existed on the property prior to By-law #38-2007 and continued since then, that parking configuration can continue under the original permission granted in 1992. If parking spaces are no longer provided on the property with direct access from Jane Street, that parking configuration is no longer permitted.

Of note, the original zoning established in 1992 and the current zoning do not permit nor infer permission for any type of structural or retail display encroachment on the Jane Street right-of-way, nor any special permission for on-street parking along Jane Street, on-street parking must be in compliance with the Town's traffic by-law.

In the Summer of 2011, the Town's Director of Public Works contacted the Town Planner with concerns regarding the encroachment of the canopy structures and retail display areas on the Jane Street right-of-way. A meeting was scheduled to meet on site with the current owner, in August 3rd, 2011. The on-site discussion with owner indicated that the retail goods and canopy structures were not permitted to be located on the Town's right-of-way and should be pulled back to inside the property line, the owner took some measures to comply with this request as there is no indication of further follow-up regarding this issue since 2011.

When Jane Street was re-surfaced / re-constructed, roll-over curbs with paved shoulders were provided to maintain some space for parking for the existing use, with the objective of directing parking off of the through travel lanes.

In short, any encroachments on the Jane Street right-of-way that are limiting the safe parking of vehicles in the paved shoulder areas are not permitted by the Zoning By-law, and it is completely within the discretion of the Town whether to permit the use of any part of the Town's right-of-way for retail display and sales.

If the use of the Town's right-of-way is to be permitted for the commercial operations on the property, a permit or similar documentation of that permission will need to be considered to detail which part(s) of the right-of-way may be used, for what purpose(s) and when that may occur. In conjunction with liability insurance requirements in the amount of \$2 million dollars.

As for the parking of vehicles on the street, the current traffic by-law is silent regarding parking restrictions on the north and south side of Jane Street between Owen Sound and Willow Streets. A traffic by-law amendment will be required should Council wish to have parking restrictions in that area. Should parking restrictions be requested, it is anticipated that parking of vehicles will then take place on the west side of Owen Sound Street thus creating additional traffic hazards and unsafe conditions on Owen Sound Street.

It is staff's recommendation to enforce the Town's current zoning by-law and not permit any encroachment onto the Town's right-of-way as paving of the parking area on the right-of way during the sister street reconstruction was to provide onsite parking for the business and owner of the property, to which the owner has decided to use it for storage of retail material instead.

Financial Impact

Non applicable currently.

Policies & Implications

Town of Shelburne Zoning By-law #38-2007

Consultation and Communications

Town Planner
Municipal Law Enforcement Officer

Council Strategic Priorities

Council's Strategic Priorities has three Goals - Sustainable, Engaged and Livable. There are a total of 12 targets with the three Goals.

The updated Town Hall Dedicated Standby Generator Report relates to the following Goals:

Target T7: Promote partnerships and collaboration

Supporting Documentation

Prepared and submitted by:

Jim Moss, Director of Development and Operations

Reviewed by:

Denyse Morrissey, CAO