



# NOTICE OF DECISION

## Subdivision and Development Appeal Board

September 10, 2019

Dear Mr. Thiessen,:

**RE: Development Permit for Paving**

In accordance with Subsection 687(2) of the Municipal Government Act, wherein the Subdivision and Development Appeal Board (SDAB) must give its decision in writing together with reasons for the decision within 15 days of concluding the hearing, the following serves as notification.

**Finding of Fact:**

Upon hearing and considering the representations and the evidence of the parties concerned the Board find the facts in the matter to be as follows:

1. Development occurred without a development permit.
2. The Development occurred on Municipal land without permission.
3. Complaints regarding curb stops should be made to the Summer Village Office for Public Works to address.
4. The permitted width for a driveway is 10m (34 ft.).
5. Resident is using municipal property as a driveway.

6. The development is not consistent with the "county lane" look as outlined in the Municipal Development Plan and could diminish property values.

**Decision of the Subdivision and Development Appeal Board:**

The Subdivision and Development Appeal Board, has noted the following from the Land Use Bylaw #170-13 (as amended), the Municipal Development Plan, and the Traffic Bylaw #159-11:

Land Use Bylaw

Land Use Bylaw Section 2.2

"All development undertaken in the municipality requires an approved Development Permit prior to commencement, except:

- (1) The carrying out of works of improvement, maintenance, repairs or renovation to any, but not limited to, building, deck, driveway, patio provided that such works do not include structural alterations, additions, drainage alterations or any improvement that affect parcel coverage, and that the works comply with the regulations of this Land Use Bylaw"

A driveway does not require a development permit, if it complies with the regulations of the Land Use Bylaw. However, ...

Land Use Bylaw Section 3(1) Driveways

- (a) The maximum width of a driveway shall be 10 m (32.80 ft.). Driveway width shall be measured within the carriageway.

Land Use Bylaw Section 2.4

- (2) The Municipal Planning Commission may approve an application for Development Permit even though the proposed development does not comply with this bylaw or is a non-conforming building if, in the opinion of the Municipal Planning Commission:
  - (a) The proposed development would not;
    - (i) Unduly interfere with the amenities of the neighbourhood; or
    - (ii) Materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land;

The Municipal Development Plan

Section 5.2 - Goals

2. To retain the country lane atmosphere of Birchcliff Road.

Section 5.3.5

The continuance of the country lane ambiance in Birchcliff is very important such that:

- a) healthy trees and shrubs are to be retained wherever possible along Birchcliff Road and Birch Way

Section 8.3.4

Birchcliff, through subdivision and development approvals and landscape conservation in municipal open spaces, shall maintain a "country lane" appearance of Birchcliff Road and Birch Way.

The Traffic Bylaw #159-11

No person shall park any vehicle on ditches or green spaces (exceeding a time period of 72 hours).

Based on the evidence presented at the hearing and in accordance with the Municipality's statutory documents, It is the decision of the Subdivision and Development Appeal Board to uphold the July 20, 2019 decision of the Municipal Planning Commission and deny the application for a development permit for paving at 149 Birchcliff Road as it does not comply with the vision, goals or bylaws of the Summer Village of Birchcliff; with the following amendment:

- all construction must be completed no later than November 1<sup>st</sup>, 2019.
- the land must be restored to its original condition to conform with the bylaws and to the satisfaction of the Summer Village Administration Office.

Respectfully,

SUMMER VILLAGE OF BIRCHCLIFF



Teri Musseau  
Secretary  
Subdivision and Development Appeal Board