



# THE CORPORATION OF THE MUNICIPALITY OF KINCARDINE REPORT

**Subject:** Limiting Distance Agreement – 61 Inverness St. North  
**Director:** Infrastructure & Development  
**Manager:** Development Services  
**Report Number:** Development Services-2023-15  
**Meeting Date:** Monday, June 5, 2023

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## **Recommendation:**

THAT Council pass a By-Law to enter into a Limiting Distance Agreement with the owner of West Ridge on the Lake Inc. (WROTL) - Angelo Orsi, pursuant to 9.10.15.2.(4) of the Ontario Building Code 2012;

AND FURTHER THAT Council authorizes the Mayor and Clerk to execute all required documentation on behalf of the Municipality.

**Date to be considered by Council:** Monday, June 5, 2023

## **Report Summary:**

A two storey, single-family dwelling is proposed on Lot 8 (61 Inverness St. North) in Kincardine, which is proposed to be located at a side yard distance of 1.25m from the northerly property line. Under the Ontario Building Code, the percentage of glazed openings (windows/doors) must be calculated in relation to the exposed building face for the encroaching exterior wall. As the calculated percentage exceeds the limits permitted under the Building Code, a Limiting Distance Agreement is required between the owners of the subject properties. Under the provisions of the Ontario Building Code, the spatial separation required from any residential building situated on PLAN 3M259 BLK 49 shall be located no closer than 4m to the common lot line between PLAN 3M259 LOT 8 (61 Inverness St. North)

## **Origin:**

Ontario Building Code 2012

**Existing Policy:**

Ontario Building Code 2012

**Background/Analysis:**

A two-storey single family dwelling is proposed to be built at 61 Inverness St. North, Kincardine. Upon review of the design plans, it was identified that the side yard setback along the north lot line of 1.25m in relation to the amount of glazed openings along the exterior wall exceeded what is permitted under section 9.10.15.2(4) of the Ontario Building Code. The required setback under the R1-bh zoning is 1.2m, however the Ontario Building Code requires a Limiting Distance of 4.0m under section 9.10.15.4(1). The Code considers the likelihood of fire spread from one building to the potential location of an adjacent building regarding their physical proximity to each other and as such, the building code requires that buildings be constructed a minimum distance from property lines and other buildings. The Building Code identifies these required spatial separations which are in addition to the provisional setbacks identified in the Municipality of Kincardine's Zoning Bylaw.

The glazed openings along the north exterior wall of 61 Inverness St. North represent 16.8% of the wall area. Based on this calculated percentage, no dwelling shall be established on the adjacent lot, being PLAN 3M259 BLK 49 closer than 4.0m to the common lot line of 61 Inverness St. North (PLAN 3M259 LOT 8).

Under the provisions of the Building Code, the Limiting Distance of an exposed building face is permitted to be measured to a point beyond the property line provided that the owners of the properties on which the limiting distance is measured and the Municipality enter into an agreement that:

- (i) each owner covenants that, for the benefit of the land owned by the other covenantors, the owner will not construct a building on his or her property unless the limiting distance for the exposed building faces in respect of the proposed construction is measured in accordance with the agreement;
- (ii) the covenants contained in the agreement are intended to run with the lands, and the agreement shall be binding on the parties and their respective heirs, executors, administrators, successors and assigns;
- (iii) the agreement shall not be amended or deleted from title without the consent of the Municipality; and
- (iv) they will comply with such other conditions as the Municipality considers necessary, including indemnification of the Municipality by the other parties.

A Limiting Distance Agreement has been prepared that would bind the owner and any future successor of the property(s) to adhere to the spatial separation as identified within the agreement. This agreement will also be registered on title.

## **Integrated Strategy 2020 – 2025**

### **Financial Implications:**

All Legal fees incurred for preparation and registration of the Limiting Distance Agreement shall be borne by the Owner.

### **Attachments:**

Limiting Distance Agreement

Site Reference Plan – PLAN 3M259 LOT 8 and PLAN 3M259 BLK 49

### **Prepared by:**

Dwayne McNab – Development Services Manager – Chief Building Official

### **Submitted by:**

Dwayne McNab – Development Services Manager – Chief Building Official