



## Council Report

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<b>Report Number:</b>	<b>RS2021-046</b>
<b>Meeting Date:</b>	November 16, 2021
<b>Title:</b>	Proposed Disposition of Lane Leading to Jessie Avenue - Adjacent to 69 Rose Street, Pleasant Point
<b>Description:</b>	Response to the deputation of Peter Clark
<b>Author and Title:</b>	Christine Oliver, Law Clerk – Realty Services

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### **Recommendation(s):**

**That** Report RS2021—046, **Proposed Disposition of Road Allowance Adjacent to 69 Rose Street, Pleasant Point**, be received.

**Department Head:** \_\_\_\_\_

**Financial/Legal/HR/Other:**\_\_\_\_\_

**Chief Administrative Officer:**\_\_\_\_\_

**Background:**

At the Committee of the Whole Meeting of January 22, 2019, Council adopted the following resolution:

RS2019-003

**Proposed Surplus Declaration, Closure and Sale of a Portion of Shoreline Road Allowance Adjacent to 35 Rose Street, Fenelon**

Laura Carnochan, Law Clerk – Realty Services

**CW2019-015**

**Moved By** Councillor Dunn

**Seconded By** Councillor Ashmore

**That** Report RS2019-003, **Proposed Surplus Declaration, Closure and Sale of a Portion of Shoreline Road Allowance Adjacent to 35 Rose Street, Fenelon**, be received; and

**That** Council not declare the subject property surplus, being the shoreline road allowance adjacent to 35 Rose Street, in the Geographic Township of Fenelon, City of Kawartha Lakes, as well as the shoreline road allowance adjacent to properties fronting the entire length of Rose Street on its North side, at this time.

**Carried**

At the Council Meeting of February 5, 2019, Council adopted the following resolution:

CW2019-015

**CR2019-090**

**That** Report RS2019-003, **Proposed Surplus Declaration, Closure and Sale of a Portion of Shoreline Road Allowance Adjacent to 35 Rose Street, Fenelon**, be received; and

**That** Council not declare the subject property surplus, being the shoreline road allowance adjacent to 35 Rose Street, in the Geographic Township of Fenelon, City of Kawartha Lakes, as well as the shoreline road allowance adjacent to properties fronting the entire length of Rose Street on its North side, at this time.

**Carried**

At the Committee of the Whole Meeting of October 5, 2021, Council adopted the following resolution:

COW2021-09.4.1

**Encroachment Associated with 69 Rose Street, Pleasant Point**

Peter Clark

Peter Clark provided an overview of his request to purchase a portion of the unopened road allowance adjacent to 69 Rose Street in Pleasant Point. Mr. Clark advised that the building on 69 Rose Street encroaches onto the unopened road allowance and that acquiring the unopened road allowance will resolve the encroachment and will allow future renovations of the property.

**CW2021-222**

**Moved By** Councillor Dunn

**Seconded By** Councillor Ashmore

**That** the deputation of Peter Clark, **regarding the Encroachment Associated with 69 Rose Street, Pleasant Point**, be received; and

**That** this recommendation be brought forward to Council for consideration at the next Regular Council Meeting.

**Carried**

**CW2021-223**

**Moved By** Councillor Richardson

**Seconded By** Councillor Elmslie

**That** the request from Peter Clark, regarding the acquisition of the unopened road allowance to 69 Rose Street, Pleasant Point, be referred to Realty Services Staff for review and report back by the end of Q4, 2021; and

**That** this recommendation be brought forward to Council for consideration at the next Regular Council Meeting.

**Carried**

This report addresses that direction.

**Rationale:**

In October 2017, the Land Management Team (then, the Land Management Committee) reviewed an application from the owners of 69 Rose Street, Pleasant Point, to purchase the adjacent City-owned unopened road allowance leading to water legally

described as Lane E on Plan 123, in the Geographic Township of Fenelon Falls, City of Kawartha Lakes, being PIN: 63275-0126 (herein referred to as "Lane E").

The application indicated that the applicant's property is considered non-conforming and that the applicant would like to comply and transition their property into conforming. The Land Management Committee was unable to honour the request in accordance with Council Resolution CR2001-1025:

*"that unopened road allowances leading to water shall be retained by the municipality. Upon receipt of a request to purchase an unopened road allowance leading to water the applicant shall be advised that Council is not prepared to consider declaring any unopened road allowances that lead to water as surplus to municipal needs. Exceptions may be considered where alternate access to water in the immediate vicinity can be provided."*

Realty Services sent a letter dated November 3, 2017 providing the above answer and information to proceed with a deputation (attached as Appendix E).

On July 5, 2021, Realty Services received a letter to be reviewed at the next Land Management Team meeting (attached as Appendix F). The letter indicated they would like the Land Management Team to reconsider their previous decision because the non conforming status is limiting the ability to maintain their structure and provided a site grading plan (attached as Appendix G) (herein referred to as the "Site Grading" Plan).

Realty Services sent a letter dated August 4, 2021, advising the Land Management Team reconsidered their position and offered a license agreement to allow the encroachment to remain (attached as Appendix H).

In accordance with The Township of Fenelon Falls Zoning By-Law 12-95, section 15.2.1.3(c), the side yard set back to Lane E is a minimum of 7.5m. The Site Grading Plan identifies the dwelling as encroaching onto Lane E by 1.35m and the deck affixed to the dwelling encroaching by 2.13m. Lane E is approximately 10.06 m in width. Accordingly, the applicant's request to purchase half of Lane E would not rectify the issue and would not bring the dwelling into compliance.

The City previously attempted to sell a shoreline road allowance in this area. When the property was advertised to the community for notice of the intent to dispose, the community completed deputations disputing the disposition of "Jessie Avenue", a walking trail not maintained by the City but widely used by the community. One of the concerns brought to Council's attention at the time is that the entrances to Jessie

Avenue are not signed, and that people trespass on property when entering and leaving the trail as a result. Public Works staff are working towards signing the unopened road allowances leading to water in the area. This will provide clear entrance locations for the community. As this is the end of the trail, removing this exit/ entrance point would likely result in trespass.

Although the Land Management Team is supportive of licensing the cottage to remain, this would not entitle the property owners to obtain a building permit. It is recommended that at the time of substantial repair, the applicants construct within the property they currently own.

### **Other Alternatives Considered:**

Council could decide to proceed through the disposition of the unopened road allowance leading to water to accommodate 69 Rose Street, Pleasant Point, transition into conforming status. If Council decided to direct staff to proceed through the disposition process (which would include utility consultations, advertising, report to Council to request surplus declaration, etc.) this would not be consistent with past direction.

### **Alignment to Strategic Priorities**

The recommendations set out in this Report align with the following strategic priorities:

- An Exceptional Quality of Life
  - Maintain “community hubs” such as parks, buildings and active spaces for social healthy interactions
- Good Government
  - Effective management of the municipal building and land portfolio

### **Financial/Operation Impacts:**

None, if the decision to deny the purchase request is upheld.

### **Consultations:**

Land Management Team

Planning Division

### **Attachments:**

Appendix A – General Location Map



Appendix A -  
Location Map.pdf

## Appendix B – Aerial Photo



Appendix B -  
Aerial.pdf

## Appendix C – Map



Appendix C -  
Map.pdf

## Appendix D – Alternative Access to Water



Appendix D -  
Access to Water.pdf

## Appendix E – Letter Dated November 3, 2017



Appendix E -  
2017-11-03 Letter.pc

## Appendix F – Letter Dated July 5, 2021



Appendix F -  
2021-07-06 Land Ma

## Appendix G – Site Grading Plan



Appendix G - Site  
Grading Plan - 69 Rc

Appendix H – Letter Dated August 4, 2021



Appendix H -  
2021-08-04 Letter to

**Department Head email:** rcarlson@kawarthalakes.ca

**Department Head:** Robyn Carlson

**Department File:** L06-17-RS016