

**THE CORPORATION OF THE TOWNSHIP OF TAY  
PUBLIC MEETING OF MUNICIPAL COUNCIL**

**Proposed Zoning By-law Amendment (2009ZBA04)  
25 SALLOWS DRIVE**

**NOVEMBER 11<sup>TH</sup>, 2009 at 7:00 P.M.**

**COUNCIL CHAMBERS  
AGENDA**

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1. **CALL TO ORDER**
2. **MOMENT OF SILENT REFLECTION**
3. **DECLARATIONS OF PECUNIARY INTEREST**
4. **STATEMENT OF PUBLIC NOTICE**
5. **STATEMENT OF CORRESPONDENCE RECEIVED**
  
6. **PRESENTATION OF A REPORT BY TOWNSHIP STAFF**
  - 6.1 Staff Report from the Director of Planning and Development, re: 25 Sallows Drive
  
7. **QUESTION & CLARIFICATION PERIOD - PUBLIC**
8. **SPEAKERS IN SUPPORT & OPPOSITION**
9. **QUESTION & CLARIFICATION PERIOD - COUNCIL**
10. **FINAL STATEMENT BY THE MAYOR**
11. **ADJOURNMENT**

**PLANNING & DEVELOPMENT DEPARTMENT**  
Planning Services

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TO: Planning and Development Committee  
CHAIR: Deputy Mayor Michael Ladouceur  
FROM: Mara Burton, Director Planning & Development  
DATE: October 6, 2009  
**SUBJECT: Application No. 2009ZBA04 to amend Zoning By-law 2000-57  
Part of Lot 11, Concession 8, being Lot 7 on Plan 1174 and addressed  
as 25 Sallows Drive - Richards**

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**1.0 APPLICATION DETAILS**

- 1.1 Application No.: 2009ZBA04
- 1.2 Owners: Bob and Gay Richards
- 1.3 Location: Part of Lot 11, Concession 8, being Lot 7 on Plan 1174 and addressed as 25 Sallows Drive
- 1.4 Official Plan: Shoreline Residential "SR"
- 1.5 Zoning: Open Space "OS"
- 1.6 Application Proposal:  
The proposal is to rezoning of the subject lands to Shoreline Residential "SR" to permit the construction of a single detached dwelling.

**2.0 SITE DESCRIPTION**

The subject lands are located on the waterfront side of Sallows Drive.

The subject land has a frontage (measured back 7.5 metres, as per the Zoning By-law definition) of 13.2 metres (43.4 feet) and a lot area of 1,470.6 square metres (15,830 square feet). The lands are currently vacant.

Surrounding Land Use: North - Shoreline Residential "SR" Zone  
South - Shoreline Residential "SR" Zone  
East - Georgian Bay - Lakeside "LS" Zone  
West - Shoreline Residential "SR" Zone

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### 3.0 ANAYLSIS

#### 3.1 Official Plan

The subject lands are designated “Shoreline Residential” on Schedule “A” to the Township of Tay Official Plan. Section 4.1.2.1 “General Principles” states that “*The Shoreline Residential*” designation recognizes existing shoreline residential areas and communities in the Township and is intended to protect the low-density shoreline residential character of these areas. Development in the shoreline communities shall be compatible with existing lands uses in the adjacent areas.” Section 4.1.2.2 “Permitted Uses” states “Lands designated “Shoreline Residential” shall allow for seasonal and permanent single detached dwellings.”

The proposal conforms to the policies of the Township’s Official Plan.

#### 3.2 Zoning

The subject lands are currently zoned Open Space “OS” and are proposed to be rezoned to the Shoreline Residential “SR” Zone. The Shoreline Residential “SR” Zone permits a single detached dwelling, an accessory dwelling unit (apartment in a house), a home occupation and a bed and breakfast.

The subject property would be serviced by private well and septic.

The Shoreline Residential “SR” Zone requires a minimum lot area of 2,000 square metres (21,528.5 square feet) and a minimum lot frontage of 30 metres (98.4 feet). The subject land does not meet this minimum lot area and frontage requirement. The property however, is an existing lot of record created in 1955 at the time of registration of Plan 1174. This matter will be discussed further in the report.

#### 3.2 Plan 1174

Plan 1174 was registered in 1955. Lot 7, the subject property, is identified on the Plan as an “Area of User”. Lot 12 was also identified in this manner, however, Lot 12 is owned by the Township and is operated as a park. The Plan further states that: “Lots Number - 7, 12 and as a are designated as area of user – common to each property owner in the subdivision”.

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This property went up for tax sale and was acquired by the Applicants. Prior to the tax sale, the Township sought legal advice on the question of area of common user. Ted Symons of Hacker, Gignac and Rice advised that “There is a notation on the plan of subdivision indicating that each owner in the plan would have a common right to use the land - - probably for access to the water. However, there is nothing recorded on the other titles on the plan and there is no legislation that would vest an interest in the land automatically. There has been no conveyancing respecting Lot 7 since the plan was registered in 1954 or 1955. It may be a title question that will have to be resolved by a buyer of Lot 7 but, unless the owners in the area can establish a right to use the land based on actual, long-term use, something that would have to have vested before the conversion to Land Titles in 2002, a buyer will probably take title free of those claims generally. From the Township’s perspective, it can see only the interest of the assessed owner so it is a business as usual as far as the tax sale process is concerned.

The issue respecting the driveway (that may be encroaching on the lot) is similar and there is no need to give notice to the neighbour. The neighbour, as above, would have to make out his claim for an easement based on long time use (at least 20 years). If he can, that interest is preserved under the Municipal Act and will not be lost when the property is sold. In fact, the neighbour may be well advised to bid on the land and gain ownership. Potential bidders will do their own due diligence in deciding whether to bid and how much and the Township is not under any obligation to make them aware of possible title issues. If someone inquires, the information can be provided by there would be no need for a general broadcast. As you say, the interest of the neighbour, whatever that may be, is based on adverse possession and will not disappear on the sale of the property.”

As mentioned earlier in the report, Lot 7 does not meet the minimum requirements of the Shoreline Residential “SR” Zone of 30 metres of frontage and 2000 square metres of area.

A review of the lot fabric on Plan 1174 compared to today’s lot fabric reveals that the majority of lots in this area have been severed such that they are now smaller than Lot 7 and most do not meet the current minimum requirements of the Shoreline Residential “SR” Zone. Of the properties that abut Sallows Drive from Bourrie Avenue to the north end of Sallows, 11 of the original lots have been severed into 21 lots and 9 remain as they were in 1955. The following identifies the lot frontages (measured at the road as per the assessment information) and lot area for the purposes of determining the character of the neighbourhood.

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<b>Address</b>	<b>Frontage</b>	<b>Depth</b>	<b>Total Area</b>
3 Sallows	80.14	140	.22 Acres
5 Sallows	59.07		.19 Acres
7 Sallows	58.74		.20 Acres
9 Sallows	58.34		.22 Acres
11 Sallows	53.08	180	.21 Acres
15 Sallows	85.00	190	.37 Acres
17 Sallows	66.98	214	.33 Acres
19 Sallows	46.12	206	.23 Acres
21 Sallows	46.29	206	.23 Acres
23 Sallows	152.69	220	.53 Acres
<b>25 Sallows</b>	<b>62.48</b>		<b>.38 Acres</b>
27 Sallows	65	263	.39 Acres
29 Sallows	33.11	203	.20 Acres
31 Sallows	73.52	203	.43 Acres
33 Sallows	103.27	168	.52 Acres
35 Sallows	300	145	1.2 Acres
41 Sallows	50.35	120	.22 Acres
43 Sallows	50.77	160	.19 Acres
45 Sallows	50.06	160	.18 Acres
47 Sallows	50.11	152	.17 Acres
49 Sallows	67.32	150	.18 Acres
51 Sallows	66.33		.26 Acres
53 Sallows	99.83		.58 Acres
2 Bourrie Ave	150	110	.37 Acres
42 Sallows	75	105	.18 Acres
38 Sallows	75	95	.16 Acres
28 Sallows	75	86	.14 Acres
20 Sallows	76.29		.28 Acres
18 Sallows	153.85		.34 Acres
14 Sallows	76.35		.23 Acres
10 Sallows	75	130	.21 Acres
8 Sallows	152.1		.34 Acres

A review of the lots abutting Sallows reveals that 25 of the 32 lots are smaller in area and that 12 of the lots have a smaller frontage than Lot 7. As such, Lot 7 does not appear to be out of character with the lot sizes in the neighbourhood.

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#### **4.0 CONCLUSIONS AND RECOMMENDATIONS**

The Director of Planning and Development will hold a recommendation until after the public meeting.

Respectfully submitted;

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Mara Burton  
Director of Planning & Development  
/msb

Attachments      1.    Key Map  
                         2.    Draft By-law

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**THE CORPORATION OF THE TOWNSHIP OF TAY**  
**BY-LAW NUMBER 2009-58**

*"Being a By-law to rezone lands described as Part of Lot 11,  
Concession 8, being Lot 7 on Plan 1174 and addressed as 25  
Sallows Drive."*

**WHEREAS** By-law Number 2000-57 is the General Zoning By-law of the Corporation of the Township of Tay;  
and,

**WHEREAS** the Council of the Corporation of the Township of Tay have received an Application to Amend the  
General Zoning By-law and has approved the Application; and,

**WHEREAS** authority is granted pursuant to Section 34 of the Planning Act, R.S.O. 1990 to enact such  
amendments;

**NOW THEREFORE** be it enacted as a By-law of the Corporation of the Township of Tay the following:

1. Schedule "L" to General Zoning By-law Number 2000-57, is hereby further amended by rezoning from  
the Open Space "OS" Zone to the Shoreline Residential Exception Five "SR-5" Zone, those lands  
described as Part of Lot 11, Concession 8, being Lot 7 on Plan 1174 and addressed as 25 Sallows Drive,  
as shown on Schedule "A", which is attached hereto and forms part of this By-law.
2. Subsection 12.4 "Shoreline Residential "SR" Zone, Zone Exceptions" is hereby amended by adding the  
following new article 12.4.5 immediately following the article 12.4.4 as follows:  

"12.4.5                    SR-5 Zone -----

Notwithstanding Subsections 12.3.1 and 12.3.2 the minimum lot area shall be 1400 square metres and  
the minimum lot frontage shall be 13 metres."
3. This By-law shall take effect and come into force pursuant to the provisions of the Planning Act, R.S.O.  
1990, c.P.13., as amended, and the regulations made thereunder.

Comment: Underline the "S"

**BY-LAW** read a **FIRST**, **SECOND**, and **THIRD** time and finally **PASSED** this 9<sup>th</sup> day of December, 2009.

**THE CORPORATION OF THE TOWNSHIP OF TAY**

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**MAYOR Scott Warnock**

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**CLERK Alison Thomas**

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