

Submitted April 9, 2020

Addition of Bass Lake, Submitted April 14, 2020

Addition of Barrillia Park, Submitted May 11, 2020

Mayor Harry Hughes

Deputy Mayor Ralph Hough

Councillor Ian Veitch

Councillor Tammy DeSousa

Councillor Cathy Keane

Councillor Shawn Scott

Councillor Randy Greenlaw

Chief Administrative Officer Robin Dunn

Township of Oro-Medonte,

148 Line 7 South,

Oro-Medonte, ON.

LOL 2EO

Dear Mayor, Deputy Mayor, Councillors and Chief Administrative Officer:

RE: Short-term Rentals in the Township of Oro-Medonte

This letter is being submitted by the following Township residents' associations:

- Maplewood Ratepayers' Association
- Aware Oro-Medonte
- Eight Mile Point Cottagers' Association
- West Oro Ratepayers' Association
- Shanty Bay Residents' Association
- Oro-Station Ratepayers' Association
- Parkside Ratepayers' Association
- Moon Point Ratepayers' Association
- Hawkestone Ratepayers' Association
- Bass Lake Oro-Medonte Ratepayers Association (April 13, 2020)
- Barrillia Park Ratepayers' Association (May 8, 2020)

The operation of short-term rental properties in residential neighbourhoods has in a relatively short period of time become a pervasive and significant issue in residential neighbourhoods in many municipalities, including the Township of Oro-Medonte.

Oro-Medonte is however in a unique position to protect its residents in view of the provisions of its existing Zoning By-law which includes provisions that are not found in other municipal jurisdictions. The Township must

now act expeditiously to enforce this zoning in order to address the significant disruption that is being caused by certain short-term rentals in residential neighbourhoods in the Township.

There are several aspects of this very real and significant issue, as outlined in detail below:

- ***Disruptive short-term rentals are incompatible with residential neighbourhoods***
- ***Short-term rentals are illegal in Residential zones under the Township's existing Zoning By-law***
- ***The Township must act now to enforce its existing Zoning By-law to stop disruptive rentals***

Disruptive short-term rentals are incompatible with residential neighbourhoods

Short-term rental operations and residential land uses are fundamentally conflicting land uses, a fact that has been pointed out to the Township on repeated occasions. In particular:

- Short-term rentals attract transient disruptive out-of-town visitors who routinely turn residential homes into unsupervised ghost-hotel party houses
- Transient visitors to these party houses have no stake in the community and disregard the rights of ordinary residents to the peaceful and quiet use and enjoyment of their homes
- Zoning laws, which are designed to keep the disruptions that arise from the operation of hotels and other forms of temporary accommodations out of residential neighbourhoods, are ignored by short-term rental operators
- In the end, the very fabric of our residential neighbourhoods will be destroyed if disruptive short-term rentals are not stopped.

Oro-Medonte is particularly vulnerable to disruptive behaviour caused by short-term rentals because of its proximity to the Greater Toronto Area. Renting for \$1000 per night or more, many high occupancy short-term rentals operate in the Township as unsupervised hotels where groups can come to 'party' at a nightly or weekend rental. These rentals have check-in and check-out times, cancellation policies, cleaning fees, and credit card payments; for all intents and purposes they operate like a hotel but without the safeguards of onsite supervision as would be the case at any commercial hotel. With the recent crackdown in the GTA on 'party house' rentals, it can be expected that the demand for this type of unsupervised party house rental will continue to increase in nearby areas like Oro-Medonte.

Short-term rentals are a widespread and growing problem throughout the Township with disruptive rentals operating in shoreline residential areas as well as rural residential neighbourhoods. Lakefront homes have been converted into unsupervised resort-like ghost-hotels almost continuously rented from mid-May until September. Serious problems have also been reported in rural residential areas including Horseshoe Valley, Sugarbush, Sprucewood Estates, Warminster, and even at a farm rental near Jarratt.

Transient visitors to these short-term rentals arriving in large groups of 8 to 20 people or more are often the cause of significant disruption to neighbours and neighbourhoods. Since 2017, reported problems associated with disruptive short-term rentals in Oro-Medonte include:

- *Loud music at any hour of the day or night;*
- *Shouting, and profanity at any hour of the day or night;*
- *A radio station contest turning a cottage into a rock concert venue with an outdoor sound system, loud music and amplified jokes about disturbing the neighbours.*
- *Oral abuse of neighbours who try to quell the disruption by themselves or after they contact the police;*
- *Trespass to neighbouring properties;*
- *Dangerous and unlawful use of fireworks;*
- *Theft and vandalism of neighbours' property;*
- *Overflowing septic systems;*
- *Vehicles parked on lawns, tile beds and along roadways hindering traffic flow and emergency vehicle access;*
- *Garbage left at the roadside for days only to be strewn about by animals;*
- *Smoke from recreational fires contaminating neighbouring homes at all hours;*
- *Public intoxication;*
- *Operation of watercraft while consuming intoxicants, endangering the safety of residents using the waterfront;*
- *Public urination and defecation;*
- *Raucous stags and stagettes including prostitutes plying their trade in public view.*

Other jurisdictions have encountered equally and even more serious matters arising from the operation of short-term rentals in residential neighbourhoods. Serious incidents recently reported in Ontario include:

- ***AIRBNB BLOODBATH: 3 killed, 2 injured in shooting at downtown condo party***
(January 31, 2020) <https://torontosun.com/news/local-news/airbnb-bloodbath-3-killed-2-injured-in-shooting-atdowntown-condo-party>
- ***One dead, three seriously injured in shooting incident at Gilmour Street Airbnb***
(January 10, 2020) <https://ottawacitizen.com/news/local-news/many-injuries-reported-in-shooting-incident-ongilmour>
- ***Another Toronto Airbnb party ends in gunshots prompting calls for action***
(December 17, 2019) <https://globalnews.ca/news/6304537/toronto-airbnb-party-gunshots/>
- ***Police release shocking video of shots fired into home in Vaughan***
(November 4, 2019) <https://www.yorkregion.com/news-story/9672651-update-police-release-shocking-video-of-shots-fired-into-home-in-vaughan/?s=e>
- ***Man critical after shooting linked to house neighbours say was an Airbnb***
(October 20, 2019) <https://ottawacitizen.com/news/local-news/police-investigate-early-morning-shooting-that-sends-twoto-hospital>

□ ***The home became a crime scene': Airbnb host's home shot at after party shut down***

(October 15, 2019) <https://toronto.ctvnews.ca/the-home-became-a-crime-scene-airbnb-host-s-home-shot-at-after-partyshut-down-1.4639788>

□ ***Man dead, woman injured after 'targeted' shooting outside Newmarket Airbnb***

(October 5, 2019) <https://globalnews.ca/news/5994709/colter-street-newmarket-shooting/>

□ ***Shooting at Airbnb in the Bridle Path leaves man with life-threatening injuries***

(August 4, 2019) <https://www.cbc.ca/news/canada/toronto/bridle-path-shooting-life-threatening-injuries-man-police-1.5236065>

□ ***Male shot to death at prom after-party in home rented on Airbnb***

(May 3, 2019) <https://www.cbc.ca/news/canada/toronto/whitchurch-stouffville-fatal-shooting-bloomington-ninth-1.5121288>

□ ***Toronto man sues Airbnb after being shot at party house***

(November 29, 2019) <https://www.thestar.com/business/2019/11/29/toronto-man-sues-airbnb-after-being-shot-atparty-house-booked-through-platform.html>

It can readily be foreseen that tragic incidents like these will inevitably occur in Oro-Medonte if prudent and effective steps are not taken by the Township to protect all residents.

Although some short-term rental operators carry on business without disturbing their neighbours, Township residents are aware of at least 29 disruptive rentals which have carried on business without regard to the effect on their neighbours. This number of disruptive rentals will only grow unless effective enforcement action is taken.

The impact on neighbouring property values in proximity to a short-term rental is significant. In the Town of The Blue Mountains, property values adjacent to licensed short-term rentals have suffered losses in excess of 10%, a fact that the Municipal Property Assessment Corporation (MPAC) previously disclosed to appellants as recently as November 2018. This may in fact understate the reality of the problem - no one wants to live next door to a disruptive short-term rental, let alone purchase such a property.

Neighbours report feeling unsafe in their homes when transient short-term renters arrive. Many neighbours fear retribution if they call the police and complain about disruptive behaviour. This fear has likely resulted in under-reporting of disruptive short-term rentals. One resident was so fearful for their personal safety that they did not feel comfortable speaking at a recent community meeting about this issue. The fear is not just confined to Oro-Medonte. A recent newspaper report in Burlington ON revealed the same fears about a short-term rental in that community.¹

¹ <https://www.thestar.com/news/gta/2020/02/04/burlington-wins-right-to-block-access-to-this-airbnb-party-mansion.html>

In Oro-Medonte, adversely affected residents have observed what has been acknowledged by the Mayor at a recent Council meeting – transient occupants of short-term rentals in the Township are not tourists. They leave no money behind except in the hands of the rental operator and there is therefore no public tourism or business benefit to the Township derived from these short-term rentals.

Expecting the online platforms to control the hotel-like or party house operations is illusory and will never happen. They in fact derive significant profits from high occupancy, high turnover short-term rental properties listed on these platforms. But they know they have a very serious problem. After the recent murders in Toronto, one platform recognized that the effectiveness of any measures that they put in place in an attempt to control disruptive behaviour would be limited and ineffective, stating that:

*"We're not infallible ... there are ways that people are going to circumvent systems."*¹

The platform's acknowledgement of this limitation is an honest recognition of reality, and it means the Township must address the problems of short-term rentals directly through enforcement of its zoning by-laws. After all, one of the principal reasons for the existence of zoning by-laws is to preserve and protect the integrity and character of residential neighbourhoods from the infiltration of incompatible commercial activities.

Short-term rentals are illegal in Residential zones under the Township's existing Zoning By-law

It is evident that short-term rentals of properties located in Residential zones (R1, R2, RUR1, RUR2, SR, RLS) in the Township of Oro-Medonte are illegal under the Township's existing Zoning By-law 97-95, as amended. The basis for this conclusion is clear:

- The Zoning By-law specifically states that only those uses which are specifically listed in the by-law as being permitted in that zone are allowed in that zone. No other uses are permitted.
- For Residential zones, dwelling units are a permitted use; however the use of a dwelling unit cannot include any commercial accommodations.
- Ontario court decisions have specifically confirmed that short-term rentals of residential housing units or dwellings are in fact a commercial use of the property.
- Interim Control By-law 2018-071 passed by the Township in June 2018 states that short-term rental of a dwelling as a place of temporary residence for a period of less than 30 days by way of a rental agreement is a commercial arrangement.
- Short-term rentals do not therefore fall within the permitted use of a dwelling unit in Residential zones since they cannot include any commercial accommodations;
- In addition to the above, it is also evident that the Township addressed the issue of short-term rentals when, in 2014, it created the Village One zone. This new zone established a specific use, but only for that zone, that permits dwelling units to be 'rented or leased by other than the unit owner'. There is no exclusion in this zone on the use of a dwelling unit for purposes of 'commercial accommodations'

¹ <https://www.cbc.ca/news/canada/toronto/airbnb-changes-security-measures-following-deadly-shooting-1.5452766>

as there is in Residential zones. This permission to use a dwelling unit for rental purposes in the Village One zone clearly captures short-term rentals. This rental use is a separate and distinct use from that permitted for dwelling units in Residential zones.

- Since the Village One zone was specifically created to allow short-term rentals of dwelling units, short-term rental use is not permitted in any other zone unless the Zoning By-law specifically allows that use. No uses permitted in any other zone describe or permit short-term rentals of dwelling units. Short-term rentals of dwelling units are therefore restricted to the Village One zone and are not permitted use in any other zone, including Residential zones.

It is therefore clear that short-term rentals are an illegal use of a dwelling in Residential zones in the Township under the existing Zoning By-law.

The Township must act now to enforce its existing Zoning By-law to stop disruptive rentals

The disruption to ordinary residents caused by short-term rentals in the Township has been well documented and reported to the Township for more than two and a half years, yet no meaningful enforcement action has been taken to date. Zoning by-laws exist for the very purpose of preventing commercial uses from infiltrating residential areas which are intended and designed to be non-commercial areas where people reside. This separation of commercial and residential uses must be observed and enforced.

It is incumbent upon Township Council to protect residents from continuing to be victimized by the operation of short-term rental properties that are illegal and are disrupting the peaceful use and enjoyment of their homes. Council and the Township staff are charged with the responsibility to uphold and enforce the very regulations that the Township has put in place to protect residents.

It is abundantly clear that changes or amendments to the Township's existing Zoning By-law are not necessary in order to proceed with enforcement action to stop illegal short-term rentals. The existing Township Zoning By-law already makes short-term rentals of dwellings illegal in Residential zones. This is not a grey area of the law in any respect. The Township addressed the fact that short-term accommodations must not be allowed to infiltrate residential areas when it amended the Zoning By-law in 2014 to allow short-term rentals of dwelling units only in the Village One zone and when it decided to specifically exclude dwelling units in Residential zones from being used to provide commercial accommodations.

The Township must take immediate enforcement action under the existing Zoning By-law against those operators who are causing disruption to their neighbours and the community. Short-term rentals of dwellings which are operating illegally in Residential zones are subject to penalties under the provincial legislation and may be shut down by way of an injunction issued by the Ontario Superior Court of Justice under the provisions of the Municipal Act. This was in fact successfully done in 2020 by the City of Burlington which obtained a permanent injunction shutting down a disruptive short-term rental operation that was illegally operating in a residential zone in that municipality.

Questions have been raised as to whether the municipality may enforce a zoning by-law against some short-term rentals while taking no action against others. On this point, it has been clearly established by a decision

of the Supreme Court of Canada (*Polai v. City of Toronto*), that a municipality has the discretion to decide in good faith which violations of a zoning by-law it will prosecute and that the municipality will not be prevented from obtaining a remedy merely because others have not been prosecuted for similar violations.

The Township can therefore proceed to pursue enforcement action under the existing Zoning By-law to shut down those short-term rentals that are disrupting Residential neighbourhoods. It will not be a defence by a short-term rental operator that the Township has not pursued all violations; the Township may fairly exercise its discretion to take action only against violators that are operating disruptive rental properties. No action is called for or need be taken against traditional cottage rentals which are not having any negative effects on the neighbouring properties or the community.

Amending the Zoning By-law as has been suggested in order to licence traditional casual short-term rentals is not the answer to this problem and would be regressive. Amending the Zoning by-law in this way will inevitably lead to commercial operators continuing to carry on their short-term rental operation under the pretence or guise of being a casual rental operator. This will completely defeat the purpose of the amendment, cause confusion and continued disruption by commercial operators who claim to fall within the scope of what is permitted for casual short-term rentals, and ultimately lead to expensive litigation. The traditional casual cottage rental has not typically presented a problem in the Township. A bona fide cottage owner engaging in occasional rentals does not generally present a problem as they themselves use the cottage primarily as their own residence and respect their neighbours and the community.

Once the existing Zoning By-law has been effectively enforced to stop the operation of those disruptive short-term rentals that have infiltrated residential neighbourhoods, the need for zoning amendments to licence traditional bona fide casual short rentals can then be properly and fairly reviewed. It is not likely however that this form of regulation will be needed if the Township acts diligently to enforce its existing Zoning By-law against those short-term rentals that are disrupting the peaceful and quiet use and enjoyment of the homes of ordinary residents. The traditional occasional cottage rental has not typically posed problems in the past.

The Township must act immediately and expeditiously to stop the disruptive short-term rentals operating in Residential zones by enforcing the existing Zoning By-law. This is a widespread problem across the Township and the disruptive behaviour that has been growing dramatically in the past few years must not be allowed to continue. Our people, our neighbourhoods and our communities must be protected.

Yours truly,

Maplewood Ratepayers' Association

Aware Oro-Medonte

Eight Mile Point Cottagers' Association

West Oro Ratepayers' Association

Shanty Bay Residents' Association

Oro-Station Ratepayers' Association

Parkside Ratepayers' Association

Moon Point Ratepayers' Association

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(April 13, 2020)

Barrillia Park Ratepayers' Association
(May 08, 2020)