

**BY-LAW NUMBER 14-36**

**OF**

**THE CORPORATION OF THE TOWNSHIP OF CLEARVIEW**

**A By-Law for the purpose of establishing an encroachment agreement between the Stayner Community Medical Health Centre Inc. and the Township of Clearview**

WHEREAS Section 8 of the Municipal act, R.S.O. 2001 provides that a municipality has the capacity, rights, power and privileges of a natural person for the purpose of exercising its authority under this or any other Act;

AND WHEREAS it is deemed expedient to permit an encroachment for two (2) parking spaces and entrances on North Street, former Town of Stayner now in the Township of Clearview;

NOW THEREFORE BE IT ENACTED a By-Law of the Corporation of the Township of Clearview as follows:

1. That an encroachment agreement, attached hereto as Schedule "A" and forming part of this By-Law, be entered into with The Stayner Community Medical Health Centre Inc.
2. That Plan 51R-39388, Plan of Survey of Part of Lot 9 West of Concession Line and Part of Park Lot 20 South of North Street, Registered Plan 194, Township of Clearview be attached as Schedule "B"
3. That the Mayor/County Councillor and Clerk be authorized to execute the agreement on behalf of the Township of Clearview.

By-Law 14-36 read a first, second and third time and finally passed this 12<sup>th</sup> day of May, 2014.

  
\_\_\_\_\_  
MAYOR / COUNTY COUNCILLOR

  
\_\_\_\_\_  
CLERK



**THIS AGREEMENT made this 12<sup>th</sup> day of May, 2014**

**BETWEEN:**

**THE CORPORATION OF THE TOWNSHIP OF CLEARVIEW**

(Hereinafter called the "Township") of the First Part,

**- AND -**

**STAYNER COMMUNITY MEDICAL HEALTH CENTRE INC.**

(Hereinafter called the "Owners") of the Second Part.

WHEREAS Stayner Community Medical Health Centre Inc. are the owners of the lands described as Lots 6, 7, 8 & Part Lot 9, Plan 194, Nottawasaga in the Township of Clearview, in the County of Simcoe, situated municipally at 7477 Highway #26; and

WHEREAS 2 (two) parking spaces and entrances encroach onto North Street as a result of a road widening; and

WHEREAS the Owners have made application to the Township for the right and licence to maintain said encroachment and the Owners shall remove the encroachment from North Street within six (6) months of receiving notice from the Township to do so;

NOW THEREFORE THIS AGREEMENT WITNESSETH that, in consideration of the mutual covenants and agreements hereinafter contained, together with other good and valuable consideration (the receipt of which is acknowledged), the Township and the Owners mutually covenant and agree as follows:

1. The Owners shall have the right and licence to keep the two parking spaces and entrances off North Street (collectively referred to hereafter as the "Authorized Encroachment") in their present location, as depicted in a sketch attached hereto and marked as Schedule "A", encroaching from the Owners' lands described as Lots 6, 7, 8 & Part Lot 9, Plan 194, Nottawasaga in the Township of Clearview, in the County of Simcoe onto North Street, PROVIDED THAT the Owners shall remove the Authorized Encroachment from North Street within six (6) months of receiving notice from the Township to do so and PROVIDED THAT this right and licence shall apply only for so long as the Authorized Encroachment on the property continue to stand.
2. The Owners shall have the right to perform normal repairs, maintenance and upkeep of the Authorized Encroachment.
3. No extension or enlargement of the Authorized Encroachment shall be permitted without the express written consent of the Township of Clearview.


4. In the event that the Authorized Encroachment are removed or demolished, singularly or collectively, any reconstruction shall be in accordance with the Township's Zoning By-law and other applicable laws, by-laws, regulations and policies in force and effect at the time of reconstruction.
5. Other than the right and licence referred to in Paragraph 1 hereof, the Owners shall not, pursuant to this agreement acquire any easement or other rights in and to those portions of North Street onto which the Authorized Encroachment encroach.
6. In the event the existing water and sewer service to the subject property has to be repaired or replaced by the Township, the Township shall be responsible for the repair or replacement of said water or sewer service to within a reasonable distance from the Authorized Encroachment (so that the encroachment will not be damaged by the work done by the Township) and the Owners shall be responsible for the continuation of the repair or replacement work from that point.
7. The Owners shall notify the Township in writing of any change of ownership of any part or all of the lands more particularly described in Clause 1 hereof.
8. The Owners hereby release the Township from any and all liability and obligation for any and all loss, damage or injury, including death to persons, which happens as a result of or arises out of the Township granting this licence to the Owners.
9. The Owners hereby covenant and agree to indemnify and save harmless the Township from any and all liability, costs, causes of action and damage whatsoever arising out of the Township granting this licence to the Owners.
10. The Owners shall make no claim against the Township in respect of damage to said encroachment, arising from snow removal, road maintenance, or other such similar activities of the Township's employees or contractors on said street.
11. This Agreement shall endure to the benefit of and be binding upon the parties hereto, their heirs, executors, successors and assigns, respectively, as owners from time to time of all or any part of the lands more particularly described in Clause 1 hereof and Schedule "A" attached hereto.
12. It is the Owners' responsibility to store this document and ensure that it is brought to the attention of all mortgagees and future purchasers.
13. This Agreement may be registered on title to the lands affected, at the sole expense of the Owners.

14. The Owners each acknowledge that he or she:
- a. Has received independent legal advice or has freely waived his or her right to obtain such advice;
  - b. Has read this Encroachment Agreement in its entirety and has full knowledge of the contents;
  - c. Understands his or her respective rights and obligations under this Agreement, the nature of this Agreement and the consequences of this Agreement;
  - d. Acknowledges that the terms of this Agreement are fair and reasonable;
  - e. Is entering into this Agreement without any undue influence, fraud, or coercion whatsoever, and
  - f. Is signing this Agreement voluntarily.

IN WITNESS WHEREOF The Corporation of The Township of Clearview and the Owners hereunto set and affix their respective hands, seal and corporate seal under the hands of their proper officers duly authorized in that behalf.

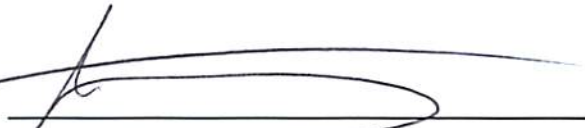
THE CORPORATION OF THE TOWNSHIP OF CLEARVIEW

per:   
Ken Ferguson, Mayor/County Councillor

per:   
Pamela Fettes, Clerk

We have authority to bind the Corporation

SIGNED, SEALED AND DELIVERED  
IN THE PRESENCE OF:

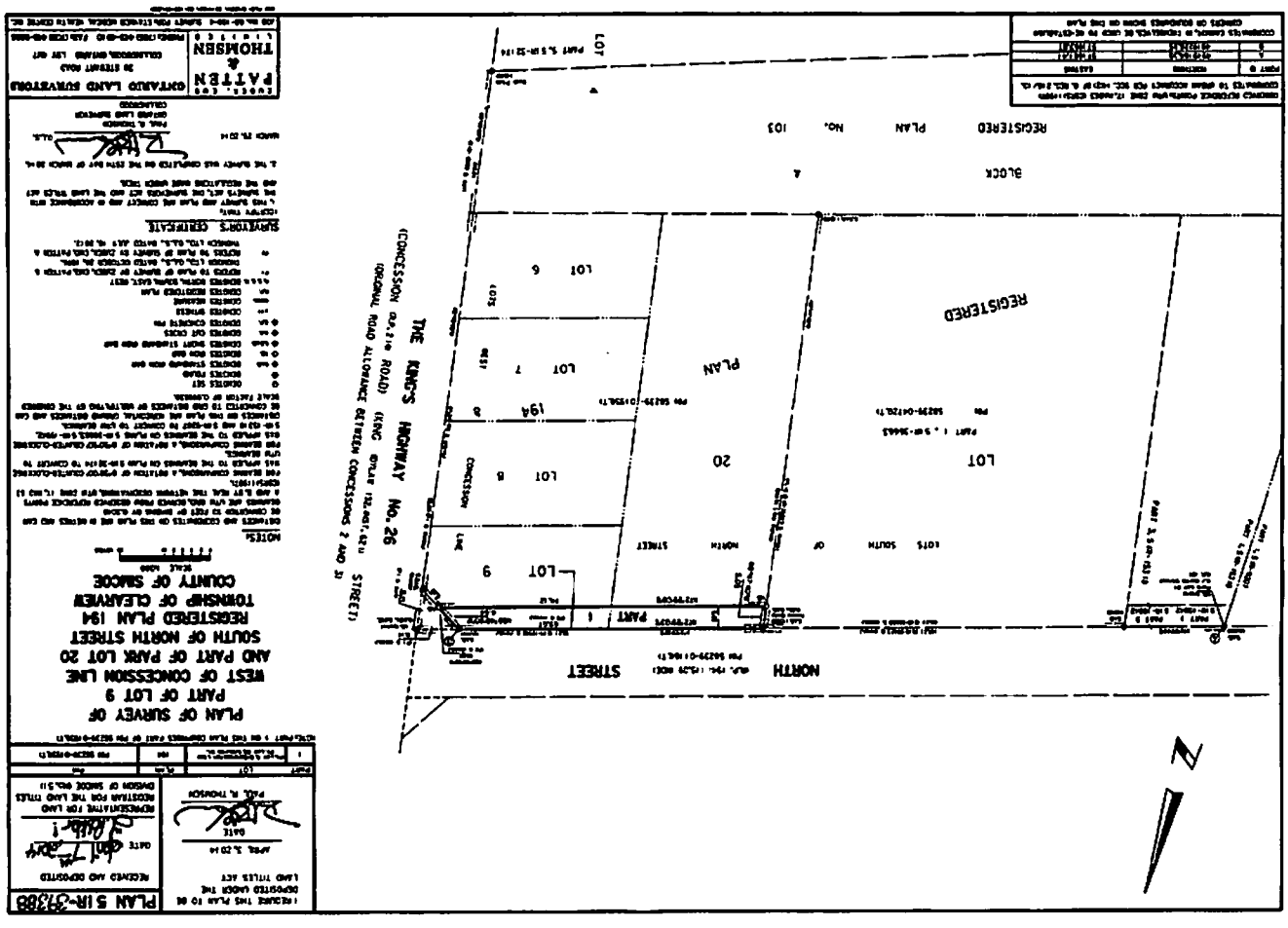
)  
)  
)   
Name of Owner

  
Witness Signature

Linda Sinclair  
Witness – PLEASE PRINT HERE

## **SCHEDULE "A"**

The sketch of the Authorized Encroachment, prepared and provided by the Owners, for lands described Lots 6, 7, 8 & Part Lot 9, Plan 194, Nottawasaga in the Township of Clearview, in the County of Simcoe, situated municipally at 7477 Highway #26, Stayner has been deposited on file in the Clerks Department at 217 Gideon Street Stayner, ON L0M 1S0.



**PLAN OF SURVEY OF PART OF LOT 9 WEST OF CONCESSION LINE AND PART OF PARK LOT 20 SOUTH OF NORTH STREET TOWNSHIP OF CLEARVIEW COUNTY OF SMOKE**

**NOTES:**

1. THE SURVEY WAS MADE BY THE SURVEYOR AND HIS ASSISTANTS ON THE 15th DAY OF MARCH 1914.
2. THE SURVEY WAS MADE IN ACCORDANCE WITH THE ACTS OF PARLIAMENT RELATIVE TO THE SURVEYING OF LANDS AND THE REGULATIONS THEREUNDER.
3. THE SURVEYOR HAS BEEN SATISFIED THAT THE SURVEY WAS MADE IN ACCORDANCE WITH THE ACTS OF PARLIAMENT AND THE REGULATIONS THEREUNDER.
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**REGISTERED PLAN 194 SOUTH OF NORTH STREET AND PART OF PARK LOT 20 WEST OF CONCESSION LINE**

**THOMSON PATRICK**  
 SURVEYOR  
 1111 BROADWAY  
 TORONTO, ONT.  
 MARCH 15, 1914  
 RECEIVED AND DEPOSITED  
 PLAN 51R-2788

|            |     |
|------------|-----|
| CONCESSION | 194 |
| PLAN       | 194 |
| REGISTERED | 194 |
| LOT        | 194 |
| STREET     | 194 |
| SECTION    | 194 |
| TOWNSHIP   | 194 |
| COUNTY     | 194 |