CORPORATION OF THE MUNICIPALITY OF MORRIS-TURNBERRY

BY-LAW NO. 80-2019


WHEREAS Section 39.1 (1) of the Planning Act, R.S.O. 1990, c. P.13, as amended, states that as a condition to passing a by-law authorizing the temporary use of a garden suite under subsection 39 (1), the council may require the owner of the suite or any other person to enter into an agreement with the municipality dealing with such matters related to the temporary use of the garden suite as the council considers necessary or advisable, including,

(a) the installation, maintenance and removal of the garden suite;
(b) the period of occupancy of the garden suite by any of the persons named in the agreement; and
(c) the monetary or other form of security that the council may require for actual or potential costs to the municipality related to the garden suite.

AND WHEREAS on August 13th, 2019 Council passed by-law 67-2019 under section 39 (1) of the Planning Act to allow the placement of a temporary garden suite for a period of up to 5 years at Concession 11 part lot 10, Turnberry;

AND WHEREAS Council deems it expedient to enter into a Garden Suite Agreement with David H Martin, Daniel H Martin as the owners and Nelson Brubacher as the occupant;

NOW THEREFORE, the Council of the Corporation of the Municipality of Morris-Turnberry enacts as follows:

1. That the Garden Suite Agreement with David H Martin, Daniel H Martin and Nelson Brubacher, attached hereto and forming part of this by-law, be adopted;

2. That the Mayor and Clerk are authorized and directed to execute the Garden Suite Agreement and to affix thereto the Seal of the Corporation; and

3. That this by-law shall come into force immediately upon its passing.

Read a FIRST and SECOND time this 17th day of September 2019

Read a THIRD time and FINALLY PASSED this 17th day of September 2019

[Signatures]

Mayor, Jamie Helow

Clerk, Trevor Hallam
SCHEDULE TO A DOCUMENT GENERAL

AGREEMENT MADE UNDER SECTION 39.1

OF THE PLANNING ACT, R.S.O. 1990

THIS AGREEMENT made the 17th day of September, 2019

BETWEEN:

David H. Martin and Daniel H Martin
(Hereinafter called the "Owners")

AND

Nelson Brubacher
(Hereinafter called the "Garden Suite Occupant")

AND

THE CORPORATION OF THE MUNICIPALITY OF MORRIS-TURNBERRY
(Hereinafter called the "Municipality")

WHEREAS the Owners are the owners of the lands described in Schedule "A" attached hereto and made part hereof;

AND WHEREAS the Garden Suite Occupant is the person who is to temporarily occupy the said garden suite located on the lands described in Schedule "A" attached hereto;

AND WHEREAS the Owners have requested that the Municipality amend Zoning By-law No. 67-2019 to permit the establishment of a garden suite on the subject land as a temporary use;

AND WHEREAS Section 39 of the Planning Act, R.S.O. 1990, as amended, permits a municipality to adopt By-laws to authorize the temporary use of a Garden Suite;

AND WHEREAS the Municipality, Owners, and Garden Suite Occupant considers it desirable and appropriate to enter into an agreement regarding the Garden Suite;

NOW THEREFORE WITNESSETH that in consideration of the premises and the sum of ONE ($1.00) DOLLAR paid to the Municipality by the Owners (receipt whereof is hereby acknowledged), and in consideration of the Municipality approving the requested Zoning By-law Amendment for the establishment of a garden suite on the lands described in Schedule "A" attached hereto, the parties hereto agree as follows:

1. This Agreement affects the lands described in Schedule "A" attached hereto, and the Owners hereby consent to the registration of this Agreement against the title of the subject land. The Municipality shall be responsible for the registration. The Owners agree to pay all costs associated with same. The Municipality Clerk shall provide the Owners with a copy of the Agreement, as registered, within 30 days of the signing of the Agreement.

2. The Owners hereby agree to obtain the required approvals and/or respect conformity requirements for such matters as Zoning By-law regulations, Building Code Requirements, Septic System Requirements, as well as any other applicable approval which is required by law, prior to the placement of a Garden Suite on the subject land. For the purpose of this Agreement, a "Garden Suite" means a one-unit detached residential structure containing bathroom and kitchen facilities that is ancillary to an existing residential structure and that is designed and constructed to be portable.

One garden suite, being a double wide modular home with a maximum area of 136 m² may be placed on the property described in Schedule "A".

3. The Garden Suite shall be located in the Garden Suite area as shown on the Site Plan sketch attached hereto as Schedule "B". Schedule "B" shall form part of this Agreement.
4. Driveway access to the Garden Suite shall be by the existing driveway access to the principal dwelling situated on the subject land and as shown on the attached Schedule “B”.

5. Water supply for the Garden Suite shall be from the existing well serving the principal dwelling on the subject land and as shown on the attached Schedule “B”.

6. A new septic system shall be installed to serve the Garden Suite. The septic system shall be decommissioned to the satisfaction of the Municipality upon the removal of the Garden Suite.

7. The Owners hereby agree and warrant that the Garden Suite Occupant is to be the only person who will reside in the Garden Suite and further that the Owners will not permit any other person(s) to reside in the Garden Suite.

8. The Garden Suite Occupant hereby agrees and warrants that they shall be the only person who will occupy the Garden Suite and further will not permit any other person(s) to reside in the Garden Suite.

9. The Owners and the Garden Suite Occupant hereby agree that the Garden Suite shall not be established on the subject property and will not be occupied until such time that the necessary Zoning By-law Amendment has come into force.

10. After the establishment of the Garden Suite on the subject land, the Owners agree to maintain it as developed. Any changes to the Garden Suite and/or the immediate site of the Garden Suite must first be approved in writing by the Municipality. Amendments to this Agreement and associated Site Plan sketch may be required.

11. The Owners agree to remove the Garden Suite from the subject land within three months of the Garden Suite Occupant vacating the Garden Suite.

12. The Garden Suite Occupant hereby undertakes and agrees to vacate the said Garden Suite on or before August 13th, 2024 (5 years from the passing of the temporary zoning by-law amendment). The Parties to this Agreement hereby acknowledge and agree that this Agreement shall expire once the said Garden Suite has been removed.

13. The Owners and the Garden Suite Occupant agree and warrant that they will not call into question directly or indirectly in any proceeding whatsoever in law or in equity or before any administrative or other tribunal the statutory authority or right of the Municipality to require and enforce each and every term, condition and covenant herein and confirm that this provision may be pleaded by the Municipality in any such action or proceeding as a complete and conclusive estoppel of any denial of such right.

14. The Owners, successors and assigns, hereby covenant to indemnify and save harmless the Municipality against any legal liability for losses, damages, claims, actions, demands, suits, and costs arising directly or indirectly from anything done by them or the Garden Suite Occupant or any of their servants, contractors or agents in connection with the performance under this Agreement.

15. Upon the removal of the garden suite from the subject land, the land shall be returned to the original state that existed prior to the establishment of the Garden Suite.

16. The Owners hereby agree to comply with each of the provisions of this Agreement and agree to provide to the Municipality security in the amount of $1,500.00 to assure performance of the terms and conditions of this Agreement and the said security shall be either:

   (a) A cash deposit with the “Municipality”;

   (b) Any irrevocable letter of credit from a Chartered Bank of Canada or financial institution, in a form and upon such terms and conditions as may be approved by the Municipality; or

   (c) Any other security in such a form negotiated with and approved by the Municipality which the Municipality deems to be sufficient security for the purpose of this Agreement and as otherwise provided herein.
17. The Owners agree that the Municipality, or its agents, may enter upon the subject property for the purpose of enforcing the terms of this Agreement and further that the Municipality may, at its sole discretion, use any or all of the $1,500.00 deposit referred to above to cover the cost of enforcing any and/or all terms of this Agreement. If the Municipality’s enforcement costs exceed $1,500.00, the Owners acknowledge and agree that the Municipality shall recover the additional expenses in a like manner as municipal taxes as provided for in Section 427 (3) of the Municipal Act, S.O. 2001 c. 25.

18. That this Agreement may be executed in any number of counterparts with the same effect as if all parties to this Agreement had signed the same document, and all counterparts will be construed together and constitute one and the same instrument. This Agreement may be executed and delivered by fax transmission and electronic mail.

IN WITNESS WHEREOF the Owners and Garden Suite Occupant have set their hand and the Municipality has hereunto affixed its corporate seal under the hands of its Mayor and Clerk.

SIGNED, SEALED AND DELIVERED In the Presence of

) PROPERTY OWNERS

) Per: David H. Martin

) David H. Martin

) Per: Daniel H. Martin

) Daniel H. Martin

) GARDEN SUITE OCCUPANT

) Per: Nelson Brubacher

) Name: Nelson Brubacher

) THE CORPORATION OF THE MUNICIPALITY OF MORRIS-TURNBERRY

) Per: Jamie Hefter, Mayor

) Per: Trevor Hallam, CAO/Clerk

"We have the authority to bind the Corporation."
- 4 -

SCHEDULE “A”

Legal Description of the Lands to Which this Agreement Shall Apply

Part of Lot 10, Concession 11, Geographic Township of Turnberry, Municipality of Morris-Turnberry

90804 Jeffray Line
"Schedule B"

Site Plan A
"Schedule B"

Site Plan B

128 - 10' x 15' lots for horse & buggy parking
3m x 4.5

72m - 237' from study to church
94m - 307' from study house to church