

The Corporation of the Municipality of Brockton



By-Law 2020-117

Being a By-Law to Enter into an Encroachment Agreement with Jenn Filsinger and Dara Bennett (Bombshell).

Whereas the *Municipal Act, R.S.O. 2001, S.O. 2001, Chapter 25*, Section 9, as amended assigns to Municipal Councils the capacity, rights, powers and privileges of a natural person for the purposes of exercising its authority under the Act or any other Act which includes the hiring of employees; and

And Whereas the Tenant, Jenn Filsinger and Dara Bennett, of Bombshell, a business located at 407 Durham Street East in the Town of Walkerton within the Municipality of Brockton desires to erect a sign that will project over Durham Street;

And Whereas the registered owner, Richard Field, has consented to a sign being erected at the property located at 407 Durham Street East in the Town of Walkerton within the Municipality of Brockton;

And Whereas the Council of The Corporation of the Municipality of Brockton deems it expedient to enter into an Encroachment Agreement with Jennifer Filsinger (Bombshell);

Now Therefore the Council of the Corporation of the Municipality of Brockton enacts as follows;

- 1.0 That the Council of The Corporation of the Municipality of Brockton hereby enter into an Encroachment Agreement attached hereto and that this Encroachment Agreement be marked as Schedule "A" to this By-Law and shall form an integral part of this By-Law;
- 2.0 That the Mayor and Clerk be and are hereby authorized on behalf of the Corporation to sign this Agreement and any other related documentation;
- 3.0 This By-Law shall come into full force and effect upon final passage.
- 4.0 This By-Law may be cited as the "Bombshell Encroachment Agreement By-Law".

Read, Enacted, Signed and Sealed this 13th day of October, 2020.

Mayor – Chris Peabody

Clerk – Fiona Hamilton

Schedule “A” to By-Law 2020-117

This Agreement made this 13th day of October, 2020.

Between:

The Corporation of the Municipality of Brockton
Hereinafter referred to as “The Municipality” of the First Part

And

Jenn Filsinger and Dara Bennett, Bombshell
Hereinafter referred to as “The Licensee” of the Second Part

Whereas the Licensee is the tenant of lands and premises situated at 407 Durham Street East, Walkerton, and legally described as PT LT 1 S/S DURHAM RD AND E/S VICTORIA ST PL 7; PT LT 2 S/S DURHAM RD AND E/S VICTORIA ST PL 7 AS IN R127631 EXCEPT EASEMENT THEREIN, bearing parcel identifier number 33203-0055 (LT), and known municipally as 407 Durham Street East, Walkerton, Ontario.

And Whereas the registered owner of the lands and premises described above has consented to a sign as proposed in Schedule “A” being erected on the property and the tenant entering into this Agreement with the Municipality;

And Whereas there is erected on the said land a building which encroaches upon Durham Street as depicted on the plan of survey attached hereto as Schedule “A” to this agreement;

And Whereas the Licensee is requesting permission from the Municipality of Brockton to maintain the said encroachment on Durham Street as set out in the attached plan and marked as Schedule “A” to this agreement.

Now Therefore This Agreement Witnesseth that in consideration of the premises and the covenants and agreements hereinafter contained on the part of the Licensee to be observed, fulfilled and performed, the Municipality of Brockton hereby grants to the Licensee (insofar as the Municipality can legally do so) permission to encroach on Durham Street and to maintain the encroachment as hereinafter set out.

And in Consideration of the granting of such permission, the Licensee hereby covenants and agrees with the Municipality of Brockton as follows:

1. That nothing herein contained shall be construed as giving to the Licensee anything more than permission (insofar as the Municipality can legally do so) to maintain the encroachment in its present position as hereinbefore set out.
2. In the event of the Municipality at any time undertaking the widening of the said Durham Street and in connection therewith requiring the removal of the encroachment the Municipality shall not be liable to pay any compensation whatsoever for or in respect to the encroachment upon or over the said street and the Licensee at his own cost and expense and to the satisfaction of the Municipality shall remove the encroachment from the said Durham Street.
3. In the event of the Licensee terminating or assigning the Lease as mentioned herein or any part thereof, the Licensee shall forthwith notify in writing the Clerk of the Municipality of such termination or assignment together with the name and address of the transferee or purchaser.
4. That all such costs, charges and expenses so paid or incurred by the Municipality as aforesaid shall form and constitute a charge or lien on the said lands until fully discharged by payment thereof.
5. The Licensee further agrees that they will make no change to the existing structure within the encroachment area.

6. The Licensee further agrees that should the portion of the building encroaching on Durham Street be removed or destroyed, for whatever reason or cause, the Licensee will not reconstruct on the encroachment area.
8. That for the purpose of this agreement notice may be given to the Licensee by mailing the same post-paid and addressed to the Licensee at his address last known to the said Municipal Clerk.
9. the Licensee will always indemnify and keep indemnified the Municipality against all actions, suits, claims and demands which may be brought against or made upon the Municipality and against all loss, costs, damages, charges or expenses whatsoever of the encroachment over and upon the said Durham Street or otherwise by reason of the exercise by the Licensee of the permission hereby granted to maintain the encroachment over and upon the said Durham Street and the Licensee hereby grants to the Municipality full power and authority to settle any such actions, suits, claims and demands on such terms as the Municipality may deem advisable and hereby covenant and agrees with the Municipality to pay to the Municipality on demand all moneys paid by the Municipality in pursuance of any such settlement and also such sum as shall represent the reasonable costs of the Municipality or its solicitor in defending or settling any such actions, suits, claims or demands.
10. That this agreement and everything herein contained shall respectively enure to the benefit of and be binding upon the said parties hereto, their heirs, executors, administrators, successors and assigns, respectively.

In Witness Whereof the Parties hereto have hereunto executed this Agreement.

The Corporation of the Municipality of Brockton

Per: _____
Mayor – Chris Peabody

Per: _____
Clerk – Fiona Hamilton

We have the authority to bind the Corporation.

Signed, Sealed and Witnessed in the Presence of:

Per: _____
Witness - _____

Per: _____
Bombshell Owner - Jenn Filsinger

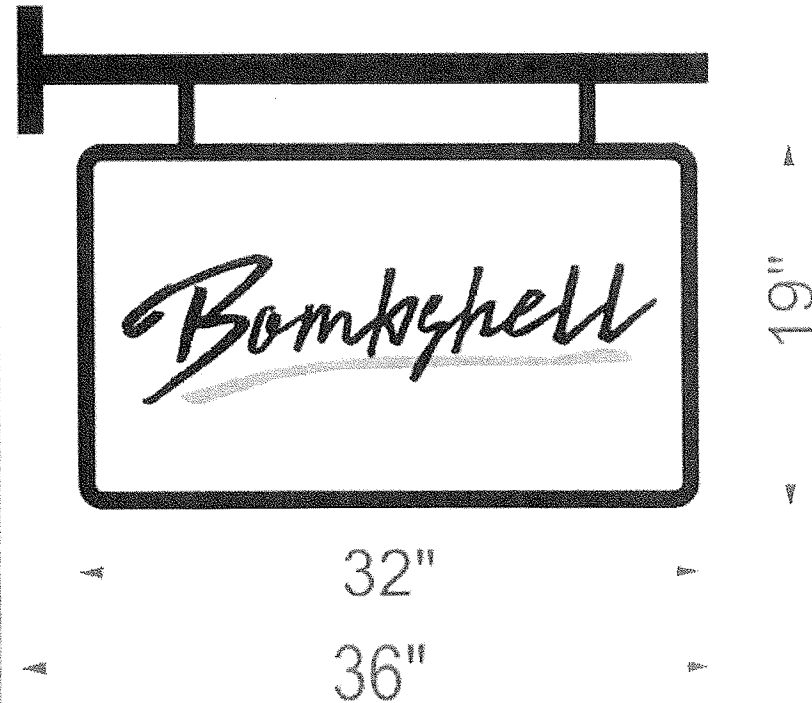
Per: _____
Bombshell Owner – Dara Bennett

Schedule “B”

Schedule for Description

PT LT 1 S/S DURHAM RD AND E/S VICTORIA ST PL 7; PT LT 2 S/S DURHAM RD AND E/S VICTORIA ST PL 7 AS IN R127631 EXCEPT EASEMENT THEREIN; BROCKTON, bearing parcel identifier number 33203-0055 (LT).

Designed exclusively for: Bombshell



Style in Design
Sign Up
Graphix
Est. 2012

Sign Details Perpendicular Blade sign. powder coated, welded steel frame mounted to existing brick facia with nickel coated sleeve anchors. Bottom of the sign height will be Min. 9' from the sidewalk surface.

Sign Up Signs & Graphix - 549 Mill St. Neustadt On., N0G 2M0

519 799 5250