



City of
Peterborough

TO: Members of the Planning Committee

FROM: Ken Hetherington, Manager, Planning Division

MEETING DATE: November 18, 2013

SUBJECT: Report PLPD13-068A
Removal of 'H' – Holding Symbol from the Zoning of the
property at 834 Water Street: Information Report Regarding the
Requirement to Construct a Fence down the Property's South
Lot Line

PURPOSE

A report to provide further information regarding the requirement for a fence down the south lot line as a condition of the removal of the "H" – Holding Symbol from the zoning of the property at 834 Water Street.

RECOMMENDATIONS

That Council approve the recommendations outlined in Report PLPD13-068A dated November 18, 2013, of the Manager, Planning Division, as follows:

- a) That Report PLPD13-068A be received for information.
- b) That Council select either Option 1 or 2 presented at the conclusion of this report and that the appropriate resolution to implement the preferred option be passed.

BUDGET AND FINANCIAL IMPLICATIONS

There are no budget or financial implications arising out of the recommendation.

BACKGROUND

At the Council meeting of October 21, 2013 Council passed the following resolution concerning the removal of the “H” – Holding Provision at 834 Water Street:

“That the item be referred to for one meeting cycle of Council, to the next Planning Committee meeting, to allow staff an opportunity to review the fencing provisions at 834 Water Street.”

This report has been prepared in response to the direction of Council.

At the Planning Committee meeting held August 27, 2012 (Planning Report PLPD12-037A), a staff recommendation was approved to re-zone the subject property with an “H” – Holding Provision. The conditions for the removal of the “H” – Holding Provision were amended by City Council two weeks later at the Council meeting held on September 10, 2012, to include a requirement for the applicant to install a 6’ high board fence along the southern property line. The applicant was not at the City Council meeting.

Subsequent to the City Council meeting, the formal notice of the passing of the zoning by-law did not specifically identify the additional requirement for the fence as it was deemed to be a condition of site plan approval rather than a condition of the rezoning.

Staff began discussions with the applicant early this year concerning the components of a site plan for the property. The applicant advised that she was unaware of the fence requirement. The abutting property owner to the south who made the request for the fence also contacted staff and made it clear that it was his expectation that a fence would be constructed down the entire south lot line. Staff visited the property and discovered existing mature maple trees occupying the first 60 feet (18 metres) of the south lot line.

After some negotiation, the abutting property owner finally agreed that staff should not require the applicant to cut down the trees to build the fence. However, in lieu of there not being a fence along the first 60 feet of the property line, he wanted the applicant to infill between the maple trees with cedar trees.

Subsequently, staff prepared a report recommending the removal of the “H” – Holding Provision from the Zoning of the subject property. A site plan was attached to the report showing a 6’ high solid board fence screening approximately 90’ (27 metres) of the south lot line.

The site plan did not show the fence extending all the way to the rear lot line because it was believed that the 90' long fence would provide an adequate measure of screening from the two car parking area adjacent to the rear dwelling unit, thus fulfilling the intent of the Council resolution. This modified interpretation of the Council condition was fully explained in staff report PLPD13-068. The report advised Council that if the interpretation of the fencing requirement as recommended in the staff report was acceptable to Council then it was appropriate for Council to remove the “H” – Holding Provision. The report was filed with the Clerk's Office for agenda distribution.

Following the filing of Report PLPD13-068 for agenda distribution and before the Planning Committee meeting, staff met with the abutting property owner on the site to explain the limits of the fence shown on the site plan attached to the staff report. The abutting property owner found the limits to be unacceptable in view of the conditions to remove the “H”- Holding Provision including the construction of a fence down the south lot line. Staff was unsuccessful at negotiating a further compromise with respect to the limits of the fence. Accordingly, staff directed the applicant, prior to the Planning Committee meeting, to extend the fence to a large mature tree near the property's rear lot line.

Between the Planning Committee meeting of October 7, 2013 and the City Council meeting of October 21, 2013, the applicant built the 90' long fence to the limits shown on the site plan attached to the October 7, 2013 Planning Committee report. The fence was not extended further to the mature tree near the rear lot line as directed by staff. Instead, a cedar hedge was planted along the remaining stretch of the subject property's south lot line.

The applicant has indicated that she should not have to extend the fence further. She believes the degree of screening provided along her south lot is adequate and reasonable. Furthermore, she believes the impact of the Zoning By-law amendment to legalize an existing dwelling unit does not warrant the amount of screening measures with the related cost.

However, to more clearly align with the original resolution of Council to build a fence along the south property line, staff have advised the applicant that, unless directed otherwise by Council, the Site Plan will not be approved until:

- i) the fence is extended to the mature tree further to the east, and
- ii) the cedar trees are transplanted among the mature maple trees near the front of the subject property.

The abutting property owner to the south has advised that if these two aspects of the site development were completed, he would be satisfied that there is adequate compliance with the condition to build the fence.

As it stands, staff cannot present the By-law to Council for the removal of the “H” – Holding Provision until the site work described above is completed, or the applicant signs a site plan agreement and deposits security for the installation of the fence extension and the transplanting of the cedar trees.

Staff will continue to withhold the passage of the By-law to remove the “H”-Holding Provision from the Zoning of the property until the site plan issues are resolved.

However, if it is the opinion of Council that the fence and hedge combination as installed by the applicant fulfills the intent and purpose of the fencing condition it is completely within the prerogative of Council to pass a by-law removing the holding provision. Fulfillment of holding provision conditions is ultimately a Council decision.

OPTIONS FOR COUNCIL

Given the current impasse Council has two options:

Option 1:

Confirm the requirement to extend the fence to the mature tree near the rear property line. If Council prefers this option the following resolution should be passed:

“That the property at 834 Water Street be rezoned from R.3-272-“H” – Residential District to R.3-272 – Residential District provided the fence along the south property line is extended to the mature tree near the rear property line.”

As soon as the applicant agrees to fulfil this obligation through the Site Plan approval process, the rezoning by-law will be placed directly on the Council agenda.

Option 2:

Accept the present fence/planting installation as an acceptable implementation of the requirement to install a fence. If Council prefers this option the following resolution should be passed:

“That the property at 834 Water Street be rezoned from R.3-272-“H” – Residential District to R.3-272 – Residential District.”

With the passage of this resolution staff will prepare the rezoning by-law for passage at the next Council meeting.

Submitted by,

Ken Hetherington
Manager, Planning Division

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Concurred with:

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Attachments:

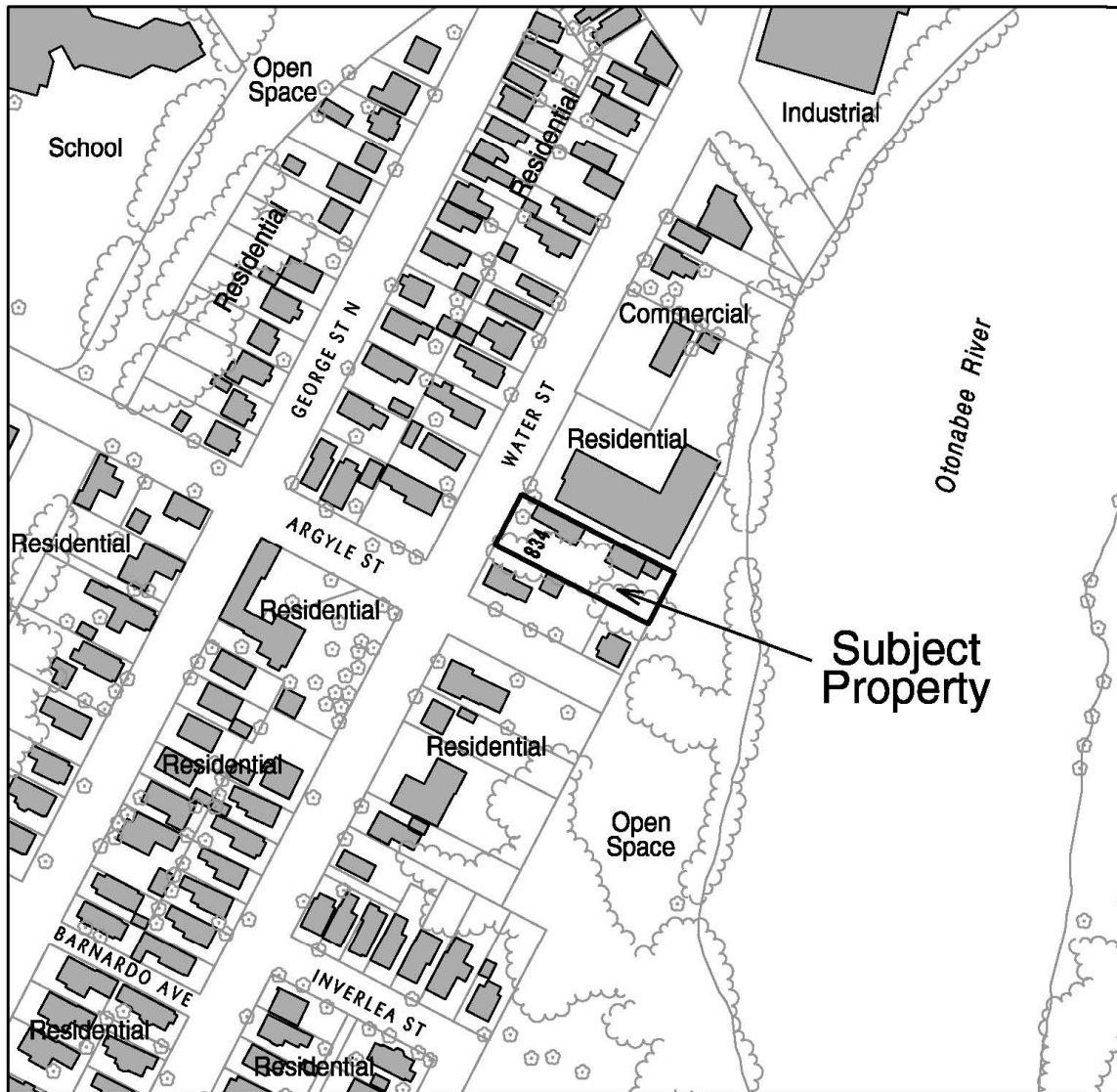
Exhibit A - Land Use Map
Exhibit B - Site Plan attached to PLPD13-068
Exhibit C - Revised Site Plan showing fence extended
Exhibit D - Site Photos

EXHIBIT A
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Land Use Map

File # z1207

Property Location: 834 Water St



The City of Peterborough Planning Division

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Date - September 2013

Dwg. by - CBerry

METRES
10 5 0 10 20 30 40

JOB 25
FILE 1

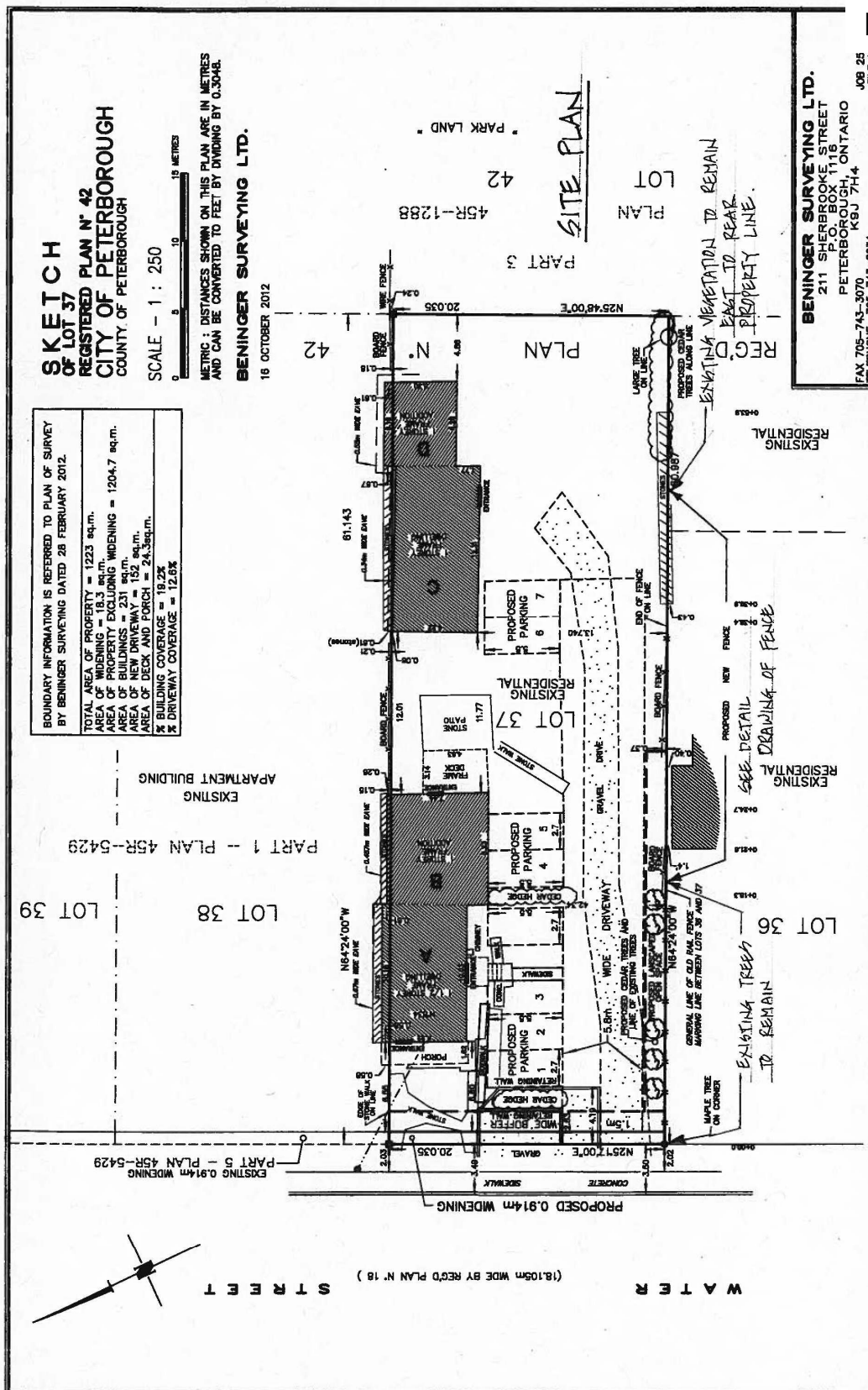
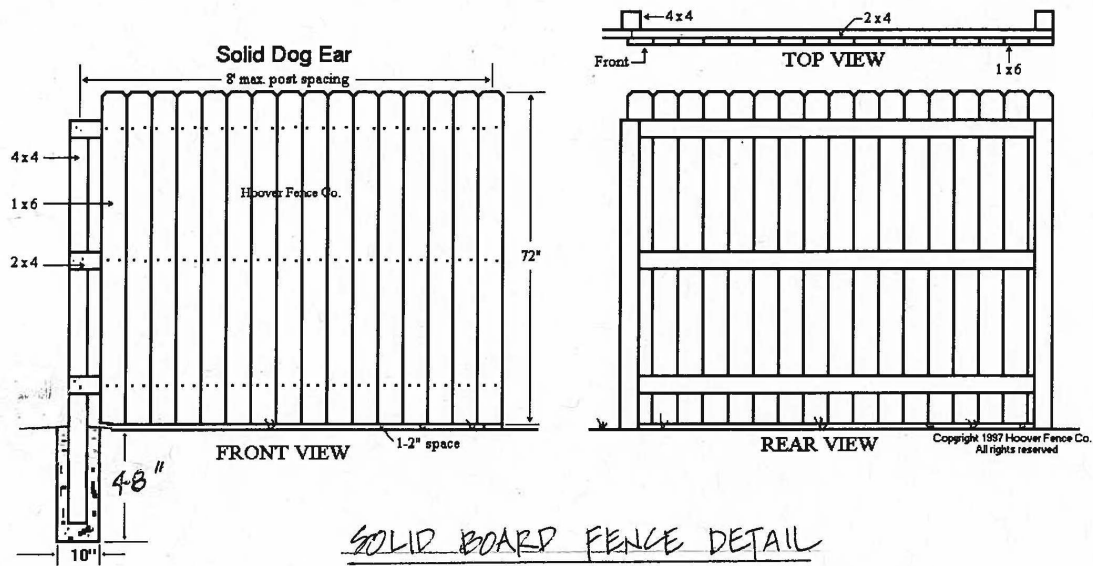


EXHIBIT B
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SOLID BOARD FENCE DETAIL

PRESSURE-TREATED WOOD FENCE WITH
4x4 POSTS FOOTED IN PACKED LIMESTONE
SCREENINGS

EXHIBIT C
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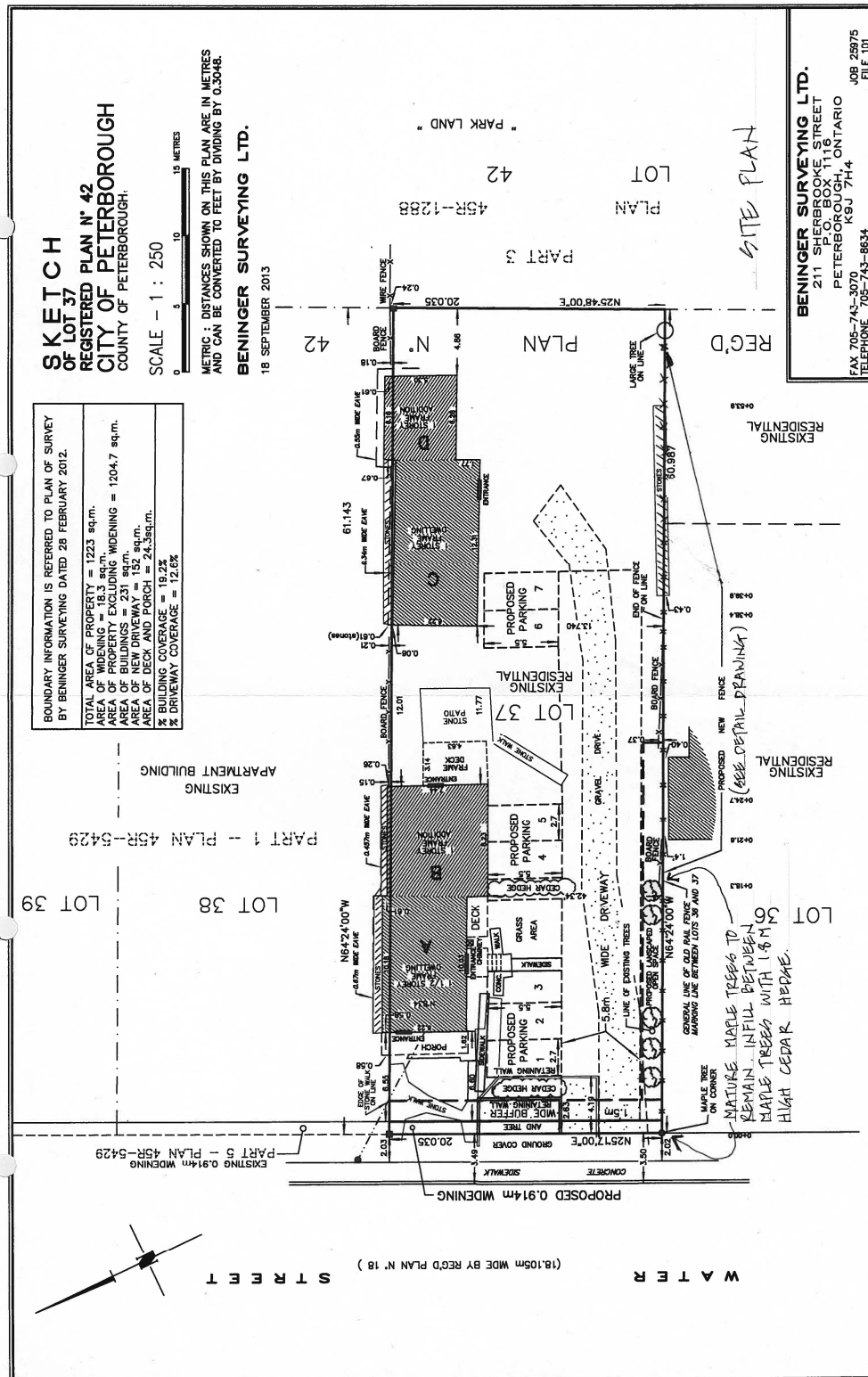


EXHIBIT D
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View of missing section of fence from Applicant's parking lot



View of Applicant's property and east limit of built fence

EXHIBIT D
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West Portion of Built Fence



East Portion of Built Fence