



MINUTES
Public Meeting Under the Planning Act
Tuesday, April 5, 2022
Council Chambers 5:00 p.m.

COUNCIL PRESENT: All members of Council were in attendance this evening with the exception of Councillor Brum.

STAFF PRESENT: Lindsey Lee, CAO/Clerk
Angela Young, Deputy Clerk
Mandy Cannon, Executive Assistant
Bruce Howarth, Manager of Planning Services, Renfrew County
Laura Jamieson, Junior Planner, Renfrew County

MEDIA PRESENT: Nil.

1. Call to Order and Roll Call

A Public Meeting under the Planning Act was held at 5:00 p.m. to consider a proposed amendment to the Zoning By-Law for the Township of McNab/Braeside in accordance with the provisions of Section 34 of the Planning Act, 1990.

2. Declare Meeting Open

Deputy Mayor Armsden stated that this is a Public Meeting held by Council under Section 34 of the Planning Act, 1990 and is declared open and further advised this Public Meeting is for 1085091 Ontario Ltd. (Agent – M. Perry) for properties located at 768 Usborne Street, Part Block Q, Plan 29.

3. Disclosure of Pecuniary Interest and the General Nature Thereof

Members were asked to state any pecuniary interest and the general nature thereof before the item is discussed. No disclosures of pecuniary interest were declared at this time.

4. Applicant

- 4.1 1085091 Ontario Ltd.
Part of Block Q, Plan 29
768 Usborne Street

5. Information Circulated

- 5.1 Notice of Public Meeting
Application Sketch
DRAFT By-Law

6. Clerks Notice of Circulation in accordance with the Requirements of the Planning Act

The Public Meeting is a requirement of the Planning Act. In accordance with the Planning Act, notice must be given at least 20 days before the Public Meeting is held. Deputy Mayor Armsden requested that the Clerk confirm the date the notice was circulated and calculate that we had the required 20 days notice.

The Deputy Clerk advised the Notice was circulated to all property owners within 120m of the subject property on March 2, 2022. The Notice was mailed to the agencies as required under the Planning Act. The Notice was published on the Township website, calendar and bulletin board on March 2, 2022. The Notice was also posted at the property site by the Applicant on March 2, 2022 and verified by the Chief Building Official.

Deputy Mayor Armsden stated that the 20 day notice having been given, declared the meeting properly constituted to transact its business.

Any person wishing to receive written notice of the approval or refusal of the amendment being considered at this meeting must leave their name and mailing address with the Township Clerk by leaving their contact information on the sheet located on the podium in Chambers.

Deputy Mayor Armsden stated that as required by Section 34 (14.5) of the Planning Act, Council is required to inform the public of who is entitled to appeal to the Ontario Land Tribunal, under Sections 34(11) and (19):

Under Section 34(11) - If Council decides to refuse an application or refuses or neglects to make a decision on an Application within 120 days of the Municipal Clerk receiving the Application, the Applicant or the Minister of Municipal Affairs and Housing, may appeal to the Ontario Land Tribunal by filing an appeal with the Clerk of the Municipality.

Section 34 (19) – Not later than 20 days after the giving of Notice of Passing of the By-Law, the Applicant, any person, or public body who made oral submissions at the Public Meeting or made a written submission to Council, before the By-Law was passed or the Minister of Municipal Affairs and Housing, may appeal to the Ontario Land Tribunal by filing an appeal with the Clerk of the Municipality.

7. Clerks Reading of the Notice

Deputy Mayor Armsden requested the Clerk give a description and location of the proposed Amendment.

The Deputy Clerk read that the property is located on Part of Block Q, Plan 29, in the geographic Village of Braeside, in the Township of McNab/Braeside, located at 768 Osborne Street.

The purpose of this proposed Zoning By-Law Amendment is to:

Recognize the uses already permitted in the Residential One-Exception Twenty (R1-E20) Zone;
Recognize the existing principle building and some existing accessory structures in their existing locations;

Permit the location of a new 8.8 metre high retaining wall to support a new 14-space parking area on the east side of the apartment dwelling;

Permit the location of a new retaining wall at the southeast corner of the apartment dwelling along Osborne Street;

Permit the location of a new extension to, and correct an encroachment of, an existing retaining wall along the west (Kirby Street) side of the subject lands.

The effect of the proposed Zoning By-Law Amendment is to delete and replace the provisions of the Residential One-Exception Twenty (R1-E20) Zone. The new R1-E20 Zone provisions will include the previous provisions to permit the 8-unit apartment dwelling and off-street parking on a separate lot, and additional zoning provisions that would reduce the various minimum setbacks of the Residential One (R1) Zone and Accessory Structure provisions of the Township's Zoning By-Law, to recognize existing and proposed structures specific to this proposal. All other provisions of the Zoning By-Law would apply.

The notice was dated March 2, 2022, and signed by the CAO/Clerk, Lindsey Lee.

Additional information regarding the Zoning Amendment was available for inspection upon request.

8. Correspondence/Comments Received

- Agencies
- Planning Department
- Others

8.1 Site Plan Notes & Details

Deputy Mayor Armsden inquired if there were any written comments received.

The CAO/Clerk advised that written comments were received as follows:

Bell Canada - Will provide a response should any comments/input be required on the information included in the circulation.

Chief Building Official - Will provide more detailed comments after a more thorough review.

Sewage System Inspector – No comments or concerns.

Enbridge Gas - Does not object to the proposed application, however, reserved the right to amend their development conditions.

CEPEO – No comments or concerns.

Director of Public Works - The setbacks in the Application sketch should be shown as "proposed".

Matthew and Robyn Arseneau submitted written comments/concerns and an Arborist Report. The written correspondence was accepted as information. With Council's permission the CAO/Clerk advised that this correspondence will be added as an attachment to the minutes.

Deputy Mayor Armsden inquired if Mr. Howarth had any comments or wish to speak to the Amendment?

Mr. Howarth advised that there was no Planning Report provided at this time so Council could consider the public feedback and Agency comments.

9. Questions/Comments

- Members of the Public
- Applicant/Agent
- Members of Council

Deputy Mayor Armsden inquired if any members of the public wished to speak to the amendment.

Matthew and Robyn Arseneau reiterated their concerns as outlined in their written correspondence. They indicated that this requested amendment poses a potentially dangerous situation for their family should the retaining wall fail as there is already fill and debris coming onto their property from the property owned by the Applicant.

Deputy Mayor Armsden inquired if the applicant or agent wished to speak at this time.

Bridgette Alchawa from McIntosh Perry confirmed that they are also in the process of a Site Plan Approval, therefore studies are underway that should address some of the questions and concerns. She indicated that the Applicant states there is no debris or fill encroaching on the neighbouring properties at this time but that she would look into this further.

Deputy Mayor Armsden inquired if any members of Council wished to speak to the amendment.

Council discussed their individual concerns and agreed to hold this application in abeyance until such time as the necessary information has been obtained and reviewed.

10. Further Information Requests List

For more information please leave your name and mailing address with the Township Clerk by leaving your contact information on the sheet located on the podium in Chambers.

11. Adjournment

Deputy Mayor Armsden advised that the Public Meeting process is now completed. Council will give careful consideration to the arguments for/and or against the Zoning Amendment requested for this property. The By-Law will be held in abeyance until all the required information has been received and considered.

Deputy Mayor Armsden thanked everyone for their attendance.

The Public meeting was declared closed.

The meeting adjourned at 5:43 p.m.

DEPUTY MAYOR

CAO/CLERK

Matthew and Robyn Arseneau
748 Osborne Street
Braeside, Ontario, K0A 1G0

April 1, 2022

Lindsey Lee, CAO/Clerk
Township of McNab/Braeside
2473 Russett Drive, RR2
Arnprior, Ontario, K7S 3G8

RE: Amendment to Zoning By-law 2010-49 of the Township of McNab/Braeside

To Lindsey Lee and Whom It May Concern,

Thank you for the notice of application and public meeting letter received earlier this month. We have spent great time reviewing the information provided. Although the proposed amendment points to an improvement of the 768 Osborne Street property, we are requesting that this not be done at the expense of our property and the safety of our family. We are thus submitting this letter to clearly state that **we are against making any changes to By-law Number 2010-49 before first seeing the engineers report, site plan and having our concerns satisfactorily addressed.** In follow-up to our numerous and public requests made to the township in previous years, we have the following concerns as it relates to this Application for Amendment:

1. Parking Lot to be built on property:

At the first public meeting on July 9, 2013 addressing changes to the existing site plan, it was made clear that a parking lot would not be constructed adjacent to our property. Instead, it would "allow a maximum of 8 apartment dwelling units and allow related off-site parking at the property across the street" (Public Meeting Under the Planning Act, July 9, 2013 Page 154). Acknowledging that there is much work to take place to fix the encroaching fill on our property, these amendments change this original understanding with both the township and property owner.

2. Set-Back Distance being changed from 7.5m to 4.13m:

The set-back of the rear yard is currently 7.5 metres (24.6') and is proposed to become 4.13 metres (13.5') in the proposed amendment. As per the Certified Arborist Report (previously submitted and attached to the electronic copy of this letter) which was presented by Arborist, Judy Gardiner, at the public meeting on September 15, 2020, the current encroachment of fill is recommended in "Recommendation 1: Removal of Fill" **to be removed up to 4 metres (13.1')**. **With the weight of this new structure and potential further damage to roots during construction of the wall, we would insist that a buffer be provided between the removal and construction of the wall begins. At a minimum, we would want the consultation of an Arborist &/or environmental engineer involved first prior to any plans being approved.**

3. It is unclear if new fill is being brought onto the site?

The drawings provided with the Application for Amendment of the proposed alterations show an "edge of new fill" line which is much closer than what has been recommended and presented. Is

new fill being brought in with the construction of the new retaining wall? We are concerned that additional fill will only add to the present problem.

4. Safety measures during construction:

What safety measures will be made during construction of the wall to protect our property and family? Knowing these will provide us more comfort with our two sons' playset at the base of the wall. What barriers will be erected for environmental protection to prevent run-off during construction to come onto our property (see Arborist Report for prior recommendations).

5. Vegetation and aesthetics:

Will the site plan include vegetation being planted at the base of the new 28.9' concrete wall?
Will aesthetics be taken into consideration of construction materials?

6. Barriers and fencing for safety and privacy:

Will the site plan include the requested barrier and privacy fencing alongside the newly proposed parking lot at the top of the edge of the wall (as previously requested at the Public Meeting Under the Planning Act, July 9, 2013 and in multiple requests since that time)? Again, this has been our ongoing request due to: (A) concerns of vehicles from going over the edge and onto our property and children's play space below; and (B) privacy and car engine noise issues including people seeing into and car lights shining into our home.

7. Drainage plan:

Will the engineers report include a drainage plan to stop continued erosion and leaching of existing fill, water and snow onto our property? How will the Township plan to inspect this?

8. Snow removal plans for parking lot:

Related to the concern above; in clearing the space required for a 14-space parking lot during the winter, what is the snow removal plan to ensure snow is not dumped onto our property below and drainage during Spring runoff?

9. Inspections and enforcement:

What is the Township's plan to inspect and enforce the proposed new site plan? How often will the wall be inspected after construction?

Thank you for your review, acknowledging that we are against the proposed amendment, and for your consideration of our concerns in the development of the proposed amendments to the by-laws. We look forward to seeing you in person at the public meeting on April 5, 2022 and to learning more information regarding this project with the engineer's report and site plans.

Respectfully,

Matthew and Robyn Arseneau

As referenced above: "Arborist Report: For the Arseneau Property, September 3, 2020" – Original signed copy submitted and presented to Council on September 15, 2020. Electronic copy included with the emailed version of this letter, for your reference.

Arborist Report

For the Arseneau Property 748 Usborne Street, Braeside, ON

Prepared by:

JUDY GARDINER

Consultant and International Certified Arborist ON-0615A

September 3, 2020

Preface and Authority:

I am an internationally trained and certified Arborist who has worked in this field with my husband, Bill Gardiner, for over 46 years. I understand trees and how to maintain tree health. Over the years, we have had the pleasure of working with thousands of customers throughout the greater Ottawa Valley: addressing tree needs including inspection, care consultations and providing pruning and safe tree removal services. My credentials are as follows:

- International Certified Arborist (ID number: ON-0615A)
- Member International Society of Arboriculture
- Member Tree Care Industry Association
- Member Ontario Commercial Arborists Association
- Butternut Health Assessor (BHA) in support of Ontario's Endangered Species Act

Background and Property Description:

The Arseneau family have owned their historic 150 year old home since 2010 and live there with their two young children aged 5 and 1. The property of 748 Usborne Street is a tiered lot with mature and naturally seeded maple trees on the west side adjacent to and bordering the property line of the neighbouring 768 Usborne Street lot (referred to within as 'Gillies Landing'). The west side of the property is also considered the Arseneau family's backyard and is the location of their landscaped yard, deck, home office (located in the garden shed), and children's play structure – the latter two are located directly adjacent to the property line of the Gillies Landing lot. *See Appendices 1 and 2 for property location and aerial views.*

In October 2016, all trees on the Gillies Landing lot were clear-cut with heavy equipment. The trees felled were of natural mature growth with some estimated to be 100 plus years of age. The felled trees were then covered with 80+ dump truck loads of unknown fill. The fill contained concrete, ash vault, pipes and other debris with the origin of fill understood to be that of the removed contaminated fill from the Arnprior Downtown Revitalization 2016/2017 Reconstruction Project which took place during the same time. After the original fill was dumped, heavy erosion along the unstable slope occurred and more fill, estimated at 20+ truck loads, was added to the slope in 2017 and again more recently in the spring of 2020. Most recently, concrete blocks were placed along the top of the slope in the spring and summer of 2020 which have now also started to erode down the slope.

What was once a gradual and naturally secure slope with proper drainage is now an extremely steep pitch falling directly onto and, subsequently eroded over, the property line of the Arseneau residence. *See Appendices 3 and 4 for photos showing before and after the clear-cut felling of trees.*

Property and Tree Concern:

The fill has been the concern of the Arseneau family as they are unaware of the consequences of:

- (A) Potential leaching of toxins within the fill;
- (B) The effects of the weight of the fill on the roots of the trees on their property;
- (C) The effects of the damage to the trees on their property when clear-cutting of adjacent trees on the Gillies Landing property was made;
- (D) Concerns for slope stability as the erosion already resulting from the addition of fill has surrounded trunks of trees on their property;
- (E) Concerns for the health of the few remaining trees located on the Gillies Landing property which are greatly impacted by erosion; also, what damage these trees will cause when dying and dropping on the Arseneau property; and
- (F) Concern for trees from the lack of drainage and the fact that snow is dumped from the Gillies Landing lot onto the Arseneau property and trees during the winter months.

Damage to trees on the Arseneau property is of greatest concern for the safety of their home and young family as dead or damaged trees will fall directly on to their home, deck, home office and children's play structure. One tree with 90% loss of foliage directly beside their children's play structure has already been removed by the Arseneau family this year at their expense. *Removal of this tree can be seen within some of the images in the Appendices.*

Observations:

I visited the Arseneau's 748 Osborne Street property in Braeside on the 30th of July, 2020. I was there to observe how the act of felling trees and the addition of the vast quantity of fill on the adjacent Gillies Landing lot has impacted the trees on the Arseneau's property (*see Appendix 7: Additional Notes*).

The dumping and addition of fill is visible from the roadside, Algonquin Trail, Ottawa River as well as the Arseneau's property and it is not an inviting sight (*see Appendices 5 and 6 for photos of visit and those provided by the Arseneau family for the purpose of this report*). The dumping of fill was directly onto mature trees which were not removed after being clear-cut. This process has removed the trees that acted as privacy as well as a sound barrier from Gillies Landing which, once a vacant building, is now is home to 8 apartments, their tenants and their vehicles (since occupancy, at least two tenants permanently park their vehicles alongside the building. This is in addition to service vehicles parking alongside the slope *as can be seen in Appendix 5*).

The fill is on the roots and within the drip line of many of the trees on the Arseneau property and along the trees on township property at the roadside. This fill is also fully covering the roots of the few remaining trees on the Gillies Landing lot (*see Appendix 6 for photos*). Over time this fill will kill some of these trees and they have been left to threaten the Arseneau property. To note that these trees will

fall directly on the areas where the family spends most of their time: in their home office, play structure and on their deck.

Concerns:

There are a number of concerns which were discussed during my visit to the Arseneau property. These concerns were tree-related but also extended to the stability of the fill in its current position. Will it continue to erode and threaten their property? Will it leach harmful components toward their property and effect their vegetation and ground water?

The very act of the addition of fill and the clearing of snow in the winter invites the use of a number of motor vehicles parked along the border to the property. *See Google Earth photo in Appendix 2 and photo in Appendix 5 for more details.* With no barrier or fencing, there is concern for additional damage to the trees and Arseneau property due to vehicle weight. Additionally, as there is no current barrier of any kind (concrete blocks recently placed this summer, 2020 are facing the Ottawa River side only and do not line the entire edge of the property), there is significant concern for vehicles parked in this area to go over the edge and onto the Arseneau property (where the children's play structure is located). *See photo of parked vehicle in Appendix 5 for this example.*

Recommendations:

In my professional opinion, the following recommendations have been made to adequately address the damage already done and to circumvent future safety concerns:

RECOMMENDATION 1: REMOVAL OF FILL

Pull back fill to arborist industry standards from the Arseneau property line onto the Gillies Landing lot. Critical Root Zone (CRZ) to be established as ten (10) centimeters from the trunk of a tree for every cm of trunk at the diameter of the tree trunk in inches at breast height (DBH). The CRZ is calculated as $DBH \times 10$ cm. This equates to **fill being removed a minimum of 3 to 4 metres back from the property line.**

RECOMMENDATION 2: BARRIER

Straw and landscape cloth to be installed immediately along the joint property line. This is to be done both (1) before recommendation 1 above (to protect the trees from the further effects of erosion before greater fill is removed) and (2) on the Gillies Landing side of property and cedar tree line after fill is removed (to protect from any further erosion in the absence of an engineered retaining wall).

RECOMMENDATION 3: RISK ASSESSMENT

An environmental assessment on the effects of the fill and leaching of elements onto the Arseneau property. This should also include the effects of melting snow and weather incidents to the 100 year level.

RECOMMENDATION 4: SLOPE STABILITY

A full soil stability study by a licensed engineering firm to be performed on the fill and grade in order to address security and the potential for future erosion due to slides.

RECOMMENDATION 5: DRAINAGE

A drainage study to be conducted ensuring that all water and snow runoff is diverted from where it is currently being directed onto the Arseneau property.

RECOMMENDATION 6: RETAINING WALL

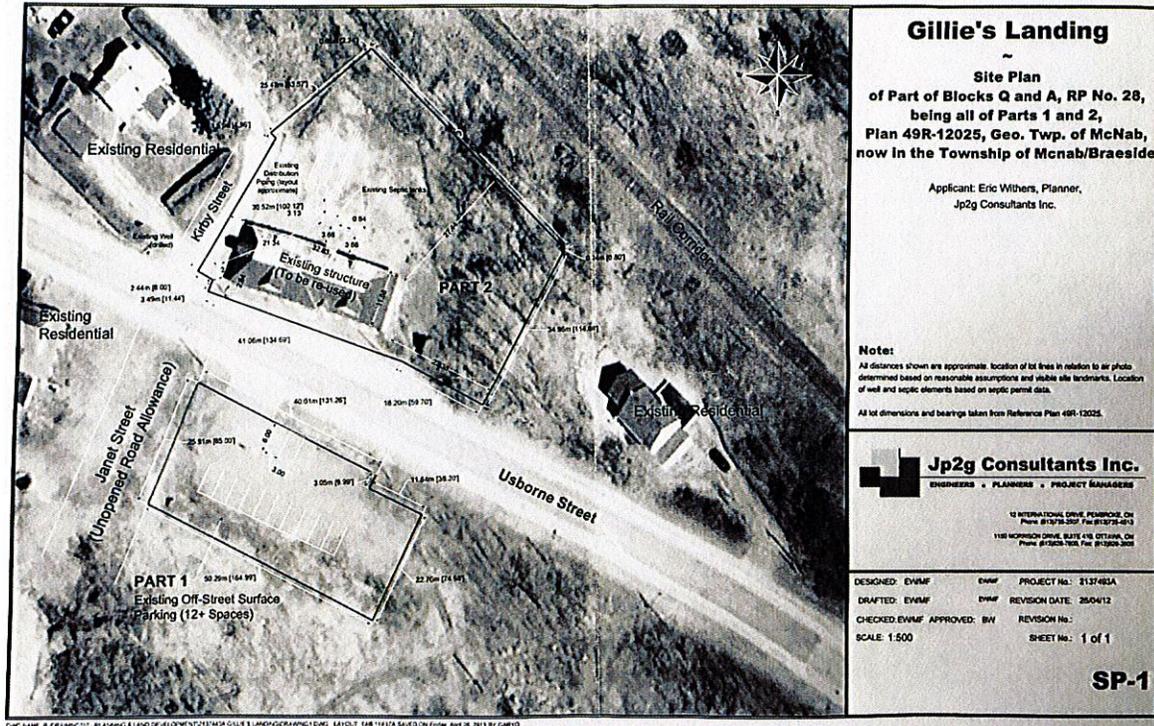
For slope stability it is highly suggested to have an adequate retaining wall installed. This wall should be designed, installed and inspected by a licensed engineering firm who has been made aware of this report and the concerns within. Although beyond the scope of my expertise, this recommendation is made to circumvent the past use of fill and present use and example of concrete blocks which were placed in the summer of 2020 – those which have already begun to eroded down the slope and threaten tree health. Furthermore, it is recommended that the retaining wall include a fenced barrier along the top of the Arseneau property side in order to replace the privacy and sound barrier eradicated by the original tree removal.

Conclusion:

I have met with the Arseneau family, observed the fill and have witnessed the subsequent damage caused to the trees on their property. There is reason for their concern not only from the perspective of tree health, but also for the safety of their family from the damaged caused to these trees. In my professional capacity, I strongly suggest serious attention be paid to their concerns and the recommendations made within this report. Furthermore, I am willing to present and discuss these findings and recommendations in person to staff or McNabb/Braeside Township council upon request.

APPENDIX 2: AERIAL VIEWS OF PROPERTY

Copy of the aerial view of the adjoining properties. This was provided to the public during the commercial to residential zoning change request as presented at the township council meeting. In the satellite photo, it can easily be seen where the treed and natural slope previously existed.



The current Google Earth view to show the changes made to the slope in the past few years.
Note: that this shows *cars parked on top of slope* — Google Earth view updated spring, 2020.



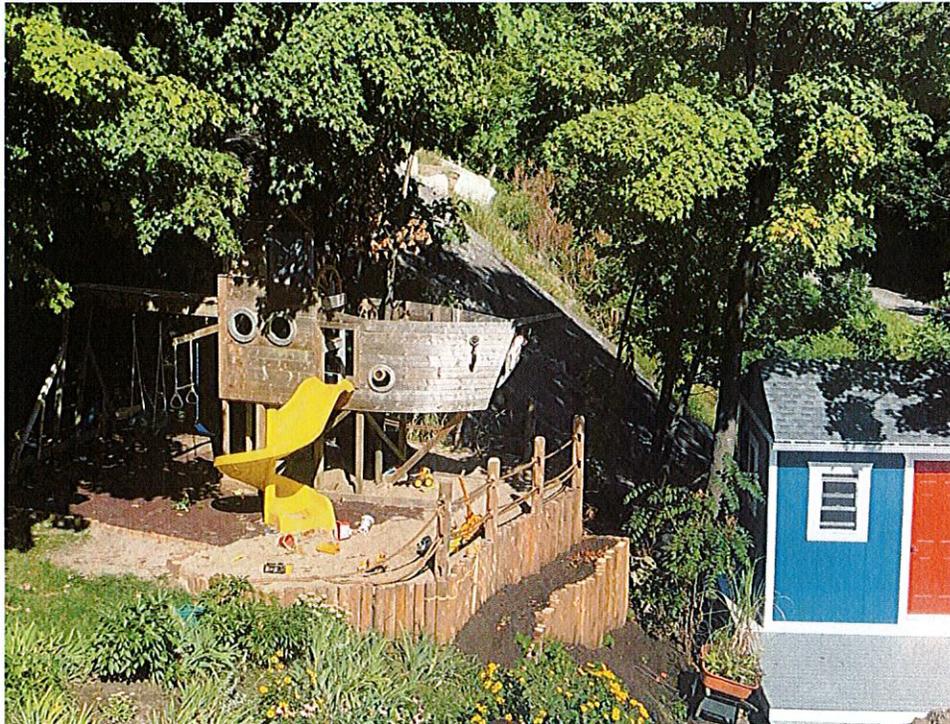
APPENDIX 3: FRONT VIEW OF PROPERTIES

View from the Ottawa River: Pictures before (2016) and after (2020) felling of trees and added fill on the Gillies Landing lot occurred. Arseneau house on the left.



APPENDIX 4: SIDE VIEW OF GILLIES LANDING FROM ARSENEAU PROPERTY

View from the backyard: Pictures taken before (2015) and after (2020) showing the felling of trees and added fill on the Gillies Landing lot. Photos taken from various angles with pre-existing play structure in foreground as reference.





APPENDIX 5: TREES IMPACTED BY ADDED FILL AND EROSION AT ROADSIDE OF PROPERTY

Photos taken of trees at the top of the property line (Usborne Street side) from the Arseneau property. All pictures were taken on July 31, 2020.

Property line marker on top right of photo below.



Tree trunks on Arseneau property impacted by fill eroded on top of and covering top of root base.



Note 1: Truck parked at the edge of the slope when picture was taken on July 31, 2020 (photo taken with children`s playhouse structure in frame for reference).

Note 2: Example of a large stone eroded onto the trunk and roots of a young maple tree.



APPENDIX 6: TREES IMPACTED BY ADDED FILL AND EROSION

Photos taken of trees along the property line. Property line roughly indicated with red dotted line. All pictures were taken on July 31, 2020



Photo below taken of trees along the property line (seen in previous picture) which have been compromised by the erosion of fill. The trees in the following photo are located on the Gillies Landing lot directly behind the Arseneau children's play structure. Child's shovel is 13" tall to show reference to the height of fill against the tree and covering tree roots to be greater than 2' at the base of the trunk.

Note: Erosion has surrounded all sides of both trees, thus the 2' of fill on the west side does not illustrate the full extent of damage done to the trunk, root base and drip line. This can only be verified when all fill is removed from all sides.





Close-up photo below taken of boulders abutting young maple.



Photo below taken of trees impinged by erosion. These trees are located on the Gillies Landing lot directly behind the location of the Arseneau family's home office. Photo taken on July 31st, 2020.

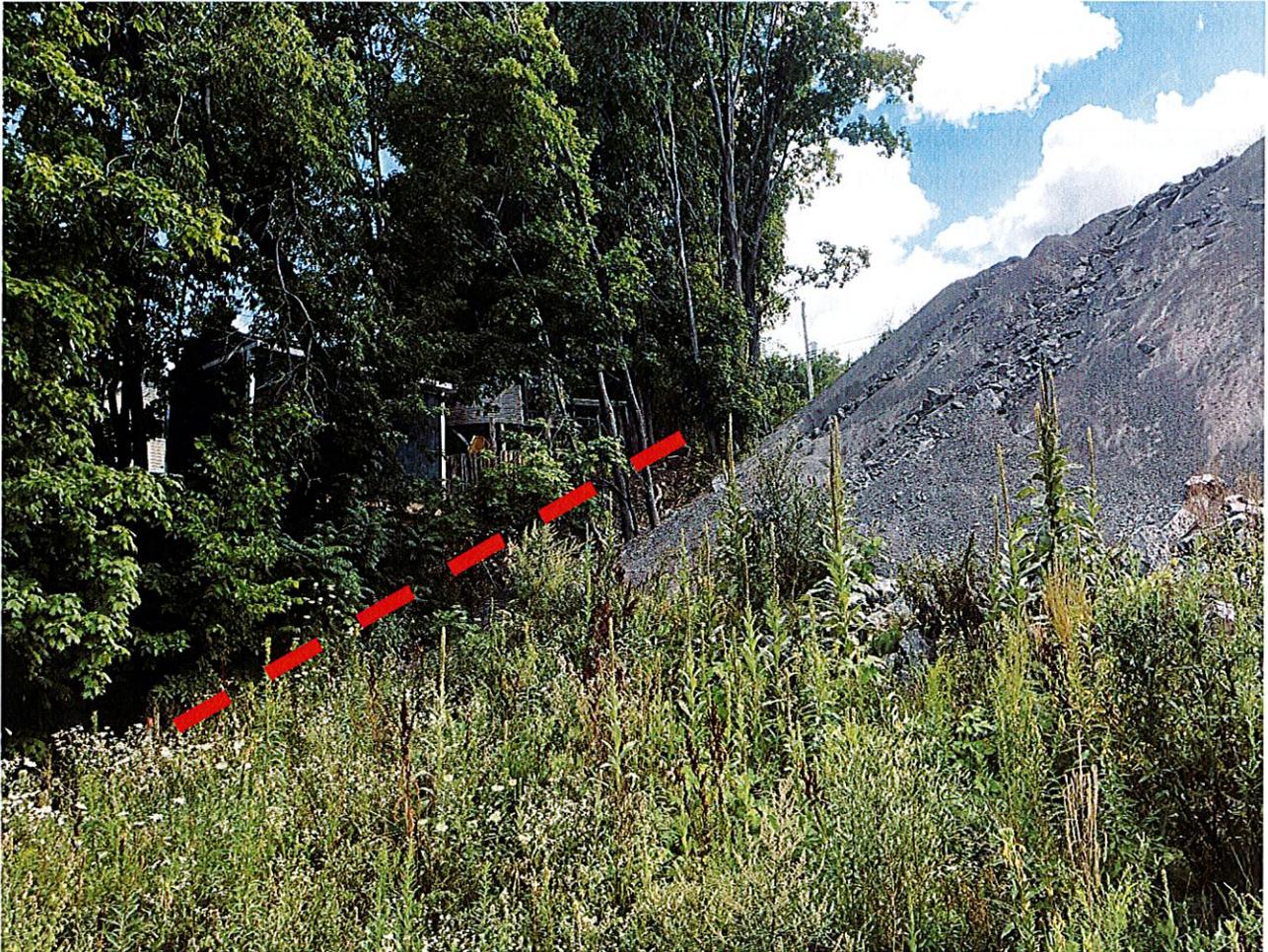


Updated photo of the same trees in the previous photo taken on September 2nd, 2020 showing greater erosion which took place since July 31st, 2020.



Next two photos show property and fill looking up from the Ottawa River/Algonquin Trail side of properties. Property marker can be seen at the lower left side of photo. Photos taken on July 31st, 2020.





APPENDIX 7: ADDITIONAL NOTES:

This site visit included only a visual inspection of accessible components and shall not be considered a tree risk evaluation. Risk evaluations involve more extensive inspection and are conducted as a separate work item at additional charge.