



## THE CORPORATION OF THE TOWN OF OAKVILLE

### BY-LAW NUMBER 2011-130

A by-law to amend the Fence By-law 2002-034, a by-law to regulate fences and privacy screens

#### COUNCIL ENACTS AS FOLLOWS:

1. By-law 2002-034, being a by-law to regulate fences and privacy screens in the Town of Oakville, is amended as follows:

(a) by deleting subsection 1(5) and replacing it with the following:

“hedge” means a continuous line of shrubs or other plant material;

(b) by deleting subsection 1(8);

(c) by deleting reference to “at least 40% open construction” in subsections 5(2), 6(4), 7(2), 8(3) and replacing it with “commercially available open lattice”.

(d) by adding a new section 11.1 as follows:

11.1 No person shall replace, or cause or permit the replacement of any section of a fence, with anything other than similar suitable materials and in a manner that maintains a uniform appearance so as not to appear unsightly.

(e) by deleting section 19 and replacing it with the following:

19(1) Pursuant to section 23.2 of the *Municipal Act, 2001*, Council hereby delegates to the Director of Planning Services, or his or her designate, the power to authorize variances from the provisions of the Fence By-law.

19(2) Applications for variances from the Fence By-law shall be made in writing to the Director of Planning Services and shall include:

(a) the application fee of \$125.00;

(b) the name, address and telephone number of the applicant;

- (c) reference to the section of the by-law from which the exemption is being sought;
  - (d) a statement whether the proposed fence or privacy screen will be temporary or permanent;
  - (e) reasons why the exemption is being sought;
  - (f) a property survey;
  - (g) a site plan;
  - (h) specifications pertaining to the description of the fence, construction and installation of the fence; and
  - (i) proof of notification to abutting neighbours by personal service or prepaid first class mail which indicates: (1) specifications of the fence, (2) reasons for the exemption request, and (3) objections must be forwarded to the Director of Planning Services within 10 days.
- 19(3) Upon reviewing an application for a variance, the Director of Planning Services shall consider:
- (a) whether the request is minor in nature;
  - (b) whether the proposed variance is desirable and in keeping with the fences in the area; and
  - (c) whether the proposed variance affects safety or sight lines.
- 19(4) The Director of Planning Services shall inform the applicant, as well as any abutting neighbours that submitted objections, by way of written notice setting out the grounds for the decision with reasonable particulars, and the right to appeal such decision to the Appeals Committee.
- 19(5) A request for an appeal to the Appeals Committee shall be made in writing to the Director of Planning Services setting out the reasons for the appeal within 10 days after service of the written notice, and shall be accompanied by an appeal fee of \$125.00 payable to the Town, which may be refunded in the Appeals Committee's discretion if the appellant is successful in the appeal.
- 19(6) Where no request for an appeal is received in accordance with subsection (5), the decision of the Director of Planning Services shall be deemed to be affirmed.

- 19(7) Where a request for an appeal is received, a hearing of the Appeals Committee shall be convened and the applicant shall be provided reasonable written notice thereof. The Appeals Committee may consider any matter in subsection (3).
- 19(8) Where an applicant makes a request for an appeal and fails to appear at the time and place scheduled for the hearing of the appeal, or requests an adjournment on the day of the scheduled hearing, the applicant shall pay to the Town an administrative fee of \$100.00, which may be refunded in the discretion of the Committee if the non-attendance was unavoidable or the adjournment is in the public interest, not prejudicial to the expeditious determination of the proceeding or otherwise justified.
- 19(9) The Rules of Practice and Procedure as set out in By-law 2010-163, as may be amended or replaced, apply to all hearings before the Appeals Committee.
- 19(10) The Director of Planning Services shall provide an annual report to Council summarizing the disposition of any variance applications or appeals.
- 19(11) Regardless of any authority delegated to the Director of Planning Services under this By-law, Council may, after notifying the Director of Planning Services exercise any authority that is delegated to the Director of Planning Services.

PASSED this 5th day of December, 2011.

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Rob Burton

MAYOR

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Cathie L. Best

CLERK