

AGENDA
PROPERTY STANDARDS COMMITTEE

Meeting held Tuesday, February 4, 2025
at 10:00 a.m.
Room 140, 350 City Hall Square West

1. Call to Order

2. Disclosure of Interest

3. Adoption of the Minutes

Adoption of the minutes of the meeting held October 24, 2024 – ***attached.***

4. Request for Deferral, Referral or Withdrawal

5. Appeals

- 5.1** ***Robert Redmond and Jocelyn Quenneville*** against an Order to Repair 24 025736 issued June 3, 2024 regarding property at 3139 Loebach Drive.

The following motion was approved at the meeting of the Property Standards Committee on October 24, 2024:

Moved by Councillor Fabio Costante, seconded by Councillor Mark McKenzie,
That the matter relating to 3139 Loebach BE DEFERRED for 90 days to allow for the appellants to retain a private consultant and to determine if there are other options to satisfy the Property Standards By-law.

Carried.

6. Adjournment

PROPERTY STANDARDS COMMITTEE

Meeting held October 24, 2024

A meeting of the Property Standards Committee is held this day commencing at 10:00 o'clock a.m. in Room 140, 350 City Hall Square West, there being present the following members:

Councillor Ed Sleiman, Chair
Councillor Fabio Costante
Councillor Mark McKenzie

Regrets received from:

Michael George
Dan Lunardi

Appellants in attendance:

Robert Redmond and Jocelyn Quenneville, regarding ***Item 5.1***

Also in attendance is the following resource personnel:

Rob Vani, Deputy Chief Building Official – Inspections
Mark Nazarewich, Deputy City Solicitor
Mike Arthur, Manager, Inspections
Ian Sakal, Building By-law Enforcement Officer
Nicole Brush, Building By-law Enforcement Officer
Karen Kadour, Committee Coordinator

1. Call to Order

The Chair calls the meeting to order at 10:00 o'clock a.m. and the Property Standards Committee considers the Agenda being Schedule A, attached hereto, matters which are dealt with as follows:

2. Disclosure of Interest

None disclosed.

3. Adoption of the Minutes

Moved by Councillor Fabio Costante, seconded by Councillor Mark McKenzie, That the minutes of the Property Standards Committee of its meeting held April 30, 2024 **BE ADOPTED** as presented.
Carried.

4. Request for Deferral, Referral or Withdrawal

None.

5. Appeals

Rob Vani, Deputy Chief Building Official – Inspections advises that this is a quasi-judicial hearing and states that the By-law Enforcement Officer will provide a presentation after which the Committee may ask questions.

Robert Redmond and Jocelyn Quenneville appear before the Property Standards Committee against an Order to Repair 24 025736 issued June 3, 2024, regarding property at 3139 Loebach Drive. The Notice of Appeal dated June 13, 2024, was received within the 14-day time frame.

The document entitled “3139 Loebach Drive VY 24-925736 provided by Ian Sakal, Building By-law Enforcement Officer is **attached** as Appendix “A”. The salient points on the matter are as follows:

- On May 28, 2024 site exterior inspected as follow-up to previous enforcement.
- Earth berm and sound attenuation wall have not been replaced to date.
- Raised garden beds and fence enclosure installed in subject area.
- Noise sound barrier visibly located and present on private property.
- The barrier was built via building permit in 1994.
- Picture taken on May 28, 2024 depicting the ends of the berm, the area where the berm should have existed, there is now a new garden area there (the pool has since been removed)
- Since then, there has been a 12 x 32 accessory structure installed in the rear of the yard. The project cost on the permit was approximately \$12,000 issued in April 2023.
- That enclosed garden area is roughly where the berm in the wall should exist.
- To date, total time provided for compliance (as of October 24, 2024) 2 years, 10 months and three weeks.

Robert Redmond and Jocelyn Quenneville, appellants provide the following remarks:

- Purchased the home in August 2019.

- There was a wall falling down with thick brush behind the area and assumed that his property ended at the top of the wall.
- Was told by the neighbours that they had removed their berms, so his berm was removed, and a new privacy fence was installed.
- Advises his lawyer did not reveal that there were encumbrances on the Title to the property.
- Was advised to replace the berm which would require a sound engineer to redesign the berm. Contacted several sound engineers who advised that no one would help them as there are very few sound engineers and if they did, would cost thousands of dollars.

Councillor Fabio Costante asks if the reason for the berm is for noise mitigation and safety. Rob Vani responds that is correct and adds that Transport Canada has jurisdiction over 300 metres beyond their rail corridors, rail yards, so any development within that 300-metre radius of their properties they have jurisdictional boundaries on that. Normally, their requirements are sound attenuation as well as mitigating spills from derailment of trains coming into the yard. There is a requirement that the proximity, the use, the number of trains, location of the sites is reviewed by a sound engineer and then the design is proposed to the rail company who will sign off on that. This is essentially the process that went on when this subdivision was approved. The design that was brought forward was the design registered on Title.

Councillor Fabio Costante asks if this is an enforcement of Transport Canada regulation of some sort. Rob Vani responds yes for the development proposal. The Property Standards By-law has a maintenance requirement to ensure that the development requirement is maintained in perpetuity, so we do not remove things. Councillor Fabio Costante asks how much discretion the municipality would have on a Property Standards by-law that is required by the Federal Ministry. Rob Vani responds that our Property Standards By-law is under the jurisdiction of the municipality, so they enforce their own by-law. The requirement for the berm was an agreement that was struck with the developer and the municipality, and it is an encumbrance on the property that is maintained in perpetuity.

Rob Vani remarks their position is the berm should be put back to the exact specifications that was previously approved under the review of a local engineer. He adds that the appellants were looking at alternative measures as opposed to putting back what was there on a cost basis.

Councillor Fabio Costante questions if hypothetically the committee said we are not going to enforce the berms anymore on these properties, does Transport Canada or CN Rail have any further jurisdiction over this matter or is it done at that point. Rob Vani suggests that the municipality itself would be attracting liability if it fails to enforce in a reasonable manner. He states that sound walls and the berms are there for health and safety of not only the respondent but the entire surrounding area.

The Chair asks if there is no berm in that area will the sound affect the neighbours. Rob Vani responds he is not a sound engineer however, the process when sound attenuation is being looked at as part of developments it is not property to property but more broadly across along a larger area. It depends how far the homes are from the roadway, it will vary the construction of the height of the sound barrier wall, berm size and height as well whether the dwellings are masonry, vinyl siding and the type of windows to mitigate sound impacts to occupants of the dwellings.

In response to a question asked by the Chair regarding if different materials can be used for the berm that would be less costly for the appellants. Rob Vani indicates that in the Order it states that the appellants may seek a consultant to look at their options to meet the requirements for sound attenuation, derailment and spillage control.

Councillor Fabio Costante asks the appellants if they sought out a consultant that would provide an array of options. Mr. Redmond advises that no one assisted them.

Rob Vani remarks that the Ontario Association of Professional Engineers has 57,000 Professional Engineers in the province, contacting the association for assistance should assist with procuring an engineering consultant who specializes in noise engineering.

Councillor Fabio Costante asks if the Property Standards Committee were to uphold the decision of the Property Standards officials, does that require that the appellants build a specific berm or would it leave options open and come back with a plan. Rob Vani responds under the *Property Standards Act*, the Committee can confirm the Order, modify the Order, extend the deadline of the Order or can quash the Order. Councillor Fabio Costante asks if the Order is to build the berm. Rob Vani concurs.

Councillor Mark McKenzie asks if the appellants had a conversation with the rail company regarding if they chose to sign off on this matter, would the city be liable. Rob Vani responds that the City is party to this agreement registered on the titles and encumbrance. The City would also have to be in agreement to modify the agreement on that property.

Councillor Fabio Costante states that the parties to this agreement includes the City, and the property owners, so, it was originally with the developer and then was vested with the property owners, so this is the agreement based on the requirements from Federal Transport Ministry. He questions if this subdivision was built today, would the Federal Transport Ministry have the same requirements. Rob Vani responds that he would not know what the requirements would be, however, the city's bylaw still requires maintenance to that berm and sound wall.

Moved by Councillor Fabio Costante, seconded by Councillor Mark McKenzie,
That the matter relating to 3139 Loebach **BE DEFERRED** for 90 days to allow for the appellants to retain a private consultant and to determine if there are other options to satisfy the Property Standards By-law.

Carried.

5.2 St. Paul Management Limited – 747 Ouellette Avenue

As the appellant is not present, is it generally agreed that a meeting be convened to address this matter at a later date to allow the owner to be present.

6. Adjournment

There being no further business, the meeting is adjourned at 11:30 o'clock a.m.