

Accessory Structure

920 Keewatin Place, Kitchener



July 04, 2023

To: Members of the Committee of Adjustment:

We are Elaine and Dario Cecchin, and we are writing to express our objection to the application for minor variance. We have standing in the matter as next door neighbours who are directly affected by the appearance, placement and impacts of the accessory structure. We also have standing as parties who were denied an arbour when we consulted with Planning approximately one year ago.

We enquired with Planning about our proposed arbour in fulsome detail and in writing. We provided a picture of the arbour and a sketch of where it would be placed. In turn, we received unambiguous guidance from Planning which we accepted as a responsible resident would.

Yet, the Applicant's request for minor zoning variance is before you not because of merit above our proposed arbour. Rather, the applications is the result of an error or miscommunication. While we have no ability for redress, you are being asked to permit the structure to stand as a result of a mistake, initially, and as a convenient fix, subsequently. It amounts to an unfair and arbitrary application of the Zoning Bylaw.

***Right: Our proposed arbour
- to be built by Heritage Design***



The situation is rendered even more inequitable when our proposed arbour was significantly less impactful in mass, visibility, and presence. Whereas our arbour would have been subordinate to the surroundings, the Applicant's structure imposes heavily on the small front yard and the streetscape.

The Structure's Unsuitability for the Front Yard

We wish to emphasize that our opposition is not simply a question of principle – that, if we can't have it, neither should they. Rather, we might have been amenable to the variance if the structure had not been so disproportionately large, visually incongruent, and placed next to the property line such that we cannot escape from viewing it. If the structure had truly been an arbour, then we would have recognized it as a decorative feature rather than a hulking built form that intrudes heavily on the streetscape.

There are several reasons to believe that the structure is unsuitable:

1. It is disproportionately large.
2. It has irregular workmanship.
3. There is virtually no setback from our property. It has incurred on our property once, already, and risks re-incurring.
4. It is not a commonly recognized lawn feature.
5. It has the form, function and stated purpose of a privacy screen.

Finally, due to the interaction of the aforementioned characteristics, we contend that the structure does not pass the Four Tests. ***Namely, pressed against the property line, the structure's tall wall-of-wood looms over our front yard and is poised to incur on our property, again. In our view, it has an antagonistic posture that is unsettling for us and incompatible with the friendly, family oriented neighbourhood. Although the structure is called an "arbour," nothing similar in form and location can be found on a front lawn in the immediate and extended neighbourhood.***

Before proceeding to a discussion of the structure's characteristics, we will provide some background about our proposed arbour that was denied by the Municipality. It is important to understand the impacts on us, in particular our inability to achieve parity with the Applicant should the variance be permitted.

Background

Our proposed arbour had the intent of concealing the Applicant's hazardous and irregularly built fence that was erected in 2022. On our side of the fence, nails and screws protruded through the lumber. It posed a risk of injury to children, pets and wildlife that inadvertently brushed against it.

In addition to the hazards, the fence displayed irregular workmanship due to a number of characteristics some which are depicted in the photographs on the following page.

We were counseled to build a parallel fence to conceal the irregularities and hazards. However, because of the pie-slice configuration of our lots, the Applicants' fence extended past the front corner of our house by 13 feet. We were restricted to a three-foot-fence beyond that point.

Because we could not build an arbour, nor an eight-foot-high fence, we had to settle for the least desirable option – to build a three-foot-high fence. While it would not completely conceal the Applicant's fence, it could at least mitigate the hazards. We spent a lot of money for a three-foot-high fence that was well-built but ultimately inadequate for the purpose.





Above Left: Nails and screws protruded through the lumber.



Above Right: A 1x6 deck board was used as stringer instead of conventional 2x4 or 2x6 boards. Because it was too short, a random piece of lumber was joined to it by a diagonal board that also served as a brace.

Even if we were now permitted either to extend an 8-foot-high fence or build an arbour, we would not be able to afford it. There was already a considerable expense for the three-foot-high fence. Then, we would have to incur removal costs. ***We will be aggrieved monetarily because we will not be able to have parity with the Applicant without considerable additional expense.***

1. The Structure is Disproportionately Large

Constructed of thick timbers including 2x6's and 2x8's, the structure has a heavy, bulky mass. Measured from the top it has the following approximate dimensions: 8-foot-high; 7-foot-wide; and 8-foot-long. The north-side is enclosed by lengths of 2-inch wide boards some of which appear discoloured. With an area of approximately 56 square feet, it takes up about 15 per cent of the Applicant's front lawn. It projects approximately 12 feet into the front yard.



From the vantage point of our yard, it would not be unreasonable to say that the structure has the constitution and appearance of a shed or large crate. It presents as a tall “wall-of-wood” that is highly distinctive and jarring at first sight. Its physical nature suggests something that would belong in the backyard or side-yard, not the front.

The structure’s imposing bearing is exasperated by the existing fence. In 2022, the applicant built an 8-foot-high fence on their side-yard. Because of the pie-slice configuration of our lots, the Applicant’s fence extends 13 feet past the front corner of our house. As a result, this portion of the fence is fully visible from our yard and the street.



The structure’s wall-of-wood is aligned exactly with the fence along the property line. The structure and fence are only about three feet apart, and they are made of similar materials. The structure’s bulk and placement corresponds with the fence to create a striking massing at the front of our property.

Together, the fence and structure present as a tall, extended wood barrier. To us, it has a fortress-like appearance that would more properly fit an industrial or commercial area.

2. The Structure Has Irregular Workmanship

Most of the irregularities stem from when the Applicant built the structure such that the joists at the top overhung our property. To correct the incursion, the Applicant cut off the ends and pushed the base of the structure toward their side. Two metal bars were hammered into the ground to act as a makeshift brace against the base – to keep it from moving back. Furthermore, when the structure was pushed into its current location, the posts on the south-side appear to have gone askew.

Finally, unrelated to the incursion, some of the boards that enclose the north-side of the structure are of an inconsistent colour or shading.



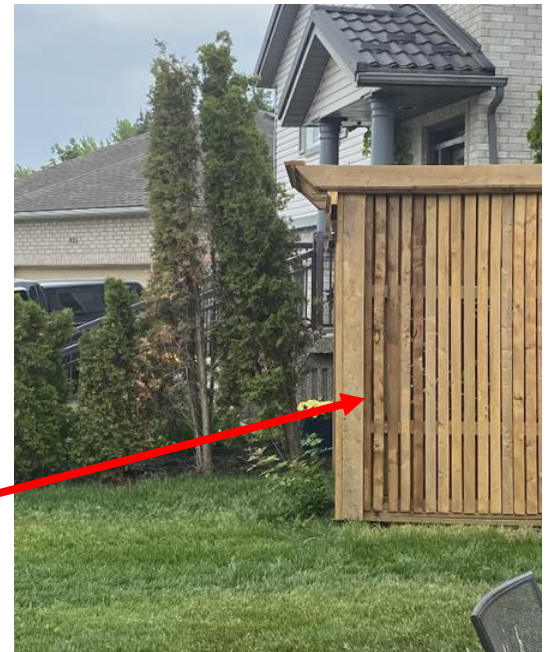
Right: Metal bars inserted into the ground to hold the structure in place.

Right: The ends of the joists were cut-off.

The joists are asymmetrical and unfinished in appearance.



Above: The posts appear to have gone askew after the structure was pushed away from the property line.



Right: Several boards on the left side of the structure are discoloured, perhaps as a result of creosote.

It should be noted that the posts are not anchored on cement piles as might be expected in the construction of such a large form. It was built substantively in the driveway and carried to the location by three men. This action may have resulted in a weakening and destabilization of the posts and frame as the men attempted to maneuver it around obstacles.

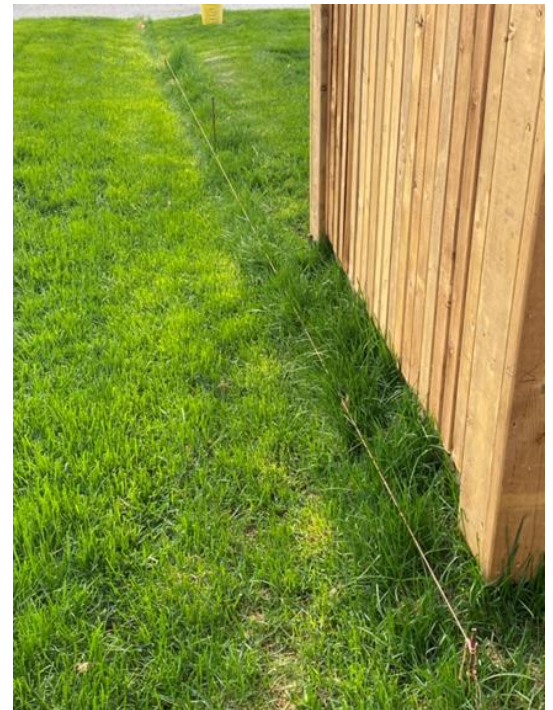
The aforementioned irregularities are on our side of the structure and, accordingly, are highly visible from our property and street. **The workmanship casts the structure as something that would not normally be displayed in a location of prominence. Rather, it attracts attention and becomes even more incongruent with the streetscape.**

3. There is Virtually No Setback from the Property Line

Although the Applicant had exact knowledge of where the property line was located, it was overlooked, remarkably. As discussed above, the structure was erected such that the joists on top overhung the property line. Instead of moving the structure the required distance away, the Applicant undertook the unconventional tact of cutting off the ends of the joists and minimally pushing the base from the property line.

But, the base was not completely lifted above grade when it was pushed away. The two posts on the south-side of the structure remained partially buried due to the higher elevation in grade at that point. As such, the base became somewhat compressed when the north-side of the structure was pushed toward the buried posts on the south-side – which, in turn, resulted in the posts going askew.

To prevent the compressed base from springing back toward the property line, the Applicant took the further unconventional tact of hammering two metal bars into the ground to act as a makeshift brace to keep the base in place.



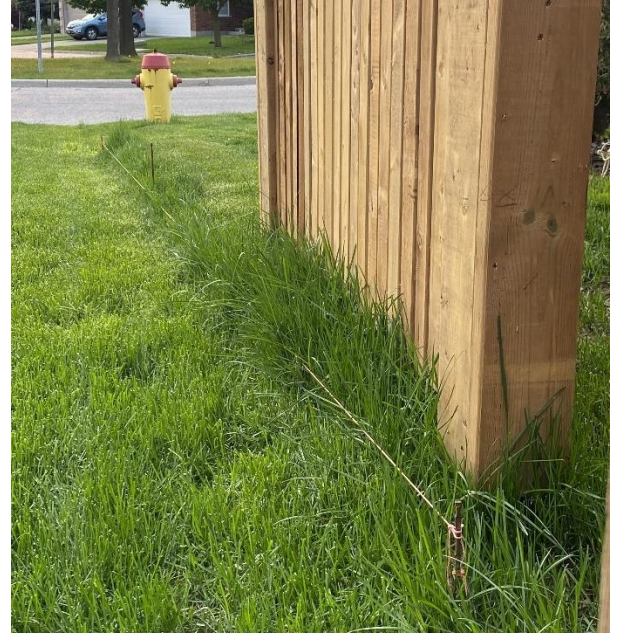
Above Left & Right: Current location of structure relative to the Applicant's stringline. The cut joists on top of the structure extend to the stringline.

Bottom Left: Metal braces at the base of the structure. This bracing technique does not inspire confidence for long-term stability.

There is no margin for error. While the base is a minimally away from the property line, the overhead joists extend right to it. With little displacement, the structure will likely spring back to our property once again. The metal braces at the base are tenuous at best. After a few cycles of freeze and thaw, the soil will loosen sufficiently for the braces to let go. ***We reasonably fear that the structure will once again incur on our property and a property-line dispute will ensue.***

In addition to the risk of repeated incursion, the lack of setback raises question about whether there is adequate room for routine maintenance. Grass-cutting is a case in point. It was not until June 9 that the grass was cut on the north-side of the structure - at about the time the application for minor variance was made. Although routine landscaping is not inconsequential for neighbours, most importantly, it is representative of the kinds of expected and unexpected maintenance issues that can arise. Yet, there is no ready access to the north-side of the structure, thereby causing maintenance to be foregone or delayed.

To reiterate, our concern is not simply about landscaping. It is about gaining proper access to all sides of the structure to conduct repairs and maintenance that may be required.



Finally, with almost zero setback, there is no buffer to provide a little distance and a visual break. Even if the Applicant was amenable to installing some landscaped screening for our benefit, it would not be possible. As a result, the structure is fully visible from our yard and the street.



The structure – in its full mass and irregular workmanship - is thrust before our view and the streetscape as conspicuously as it could possibly be.

4. The Structure is Not a Commonly Recognized Front Yard Feature

Although the application refers to the structure as an “arbour,” we contend that it is inconsistent with a commonly recognized arbour or similar structure. Arbours may range somewhat in size and style, but they do not resemble the subject structure. We begin with a definition of an “arbour” from the Merriam Webster on-line dictionary. An arbour is defined as ***“a shelter of vines or branches or of latticework covered with climbing shrubs or vines.”***

Please refer to photograph below

The screenshot shows the Merriam-Webster website with the search term 'arbor'. The page displays the word 'arbor' as a noun (1) with the phonetic transcription 'är-bər'. The definition is: 'a shelter of vines or branches or of latticework covered with climbing shrubs or vines'. There is also an illustration of an arbor structure.

When “arbour” is queried on the Internet, structures highly consistent with the dictionary representation come up. The *Family Handyman* (on right) is a case in point. The *Home Depot* presents further examples.

- See Appendix A for arbours sold by Home Depot.

All of the Home Depot’s arbours are similar in size and constitution as the ones depicted by Merriam-Webster and the Family Handyman. None come close to the Applicant’s structure.

We recognize that the Home Depot may not be an “authority” on the form and function of arbours. But, as a large-scale retailer, it is attuned to the public’s understanding of the subject. Whether an arbour is covered by vegetation or lattice, it has an open, airy form that is made of light-weight materials. Its function is to enhance or accent the softscapes – to be subordinate to the environment and blend with it.

It is not our intent to dwell on definitions of an arbour and semantics. It is simply a starting place to call into question the merits of the Applicant’s structure as a front yard feature. We have looked extensively throughout the City. In recent weeks we focused our search on the immediate and extended neighbourhood yet found nothing that resembled the Applicant’s structure. We saw a handful of lawn features that were consistent with Merriam-Webster, Family Handyman, and Home Depot. But, even these are rare.

- Please see Appendix B for a depiction of the search area and photographs of the 10 arbours located.



Home - Outdoors - Yard & Garden Structures

What Is An Arbor: What To Know Before You Buy



Kimberley McGee

Updated: May 16, 2023



The arbour located at 15 Dineen Crt. (Right) is typical of the lawn features located.

It will be noted that the arbours in our neighbourhood project minimally into their respective yards. They have a narrow profile – approximately 2 to 3 feet long and 4 feet wide. Furthermore, the sides are only partially enclosed. They are constructed of light-weight components. None abut a neighbouring property. They are truly decorative or ornamental in nature. Subordinate to the surroundings, they serve to accent and enhance the softscapes.

There seems to be an intuitive understanding among neighbourhood residents of what comprises an appropriate front-yard feature. There is also a commonly held understanding that large built forms belong in the back- and side-yards, not the front.

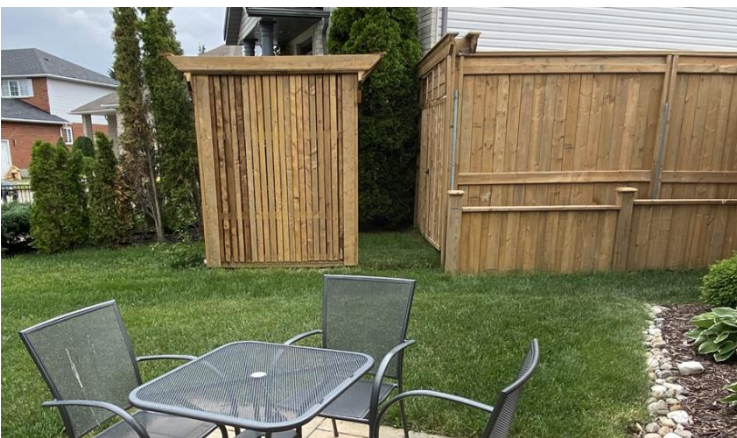
We do not exaggerate when we say the Applicants' structure is a complete outlier in form and bulk that can be found in no front yard in our neighbourhood.



Lawn feature at 15 Dineen Crt.

5. The Structure has the Form, Function, and Stated Purpose of a Privacy Screen

In the application for minor variance, the Applicant suggests that the structure has a dual purpose: esthetics and privacy. The Applicant writes, *“the initial purpose of the arbor was to enhance our property and replace the privacy trees that were planted a couple of years ago...”* The alignment of the structure with our patio area would tend to support the Applicant’s stated purpose of privacy. The north side of the structure is enclosed completely by the “wall-of-wood.” We cannot see beyond the “wall-of-wood”.



The appearance and location of the structure would fit the definition of Privacy Screen in the Municipal Code:

...a visual barrier used to shield any part of a yard from view from any adjacent parcel of land or highway.

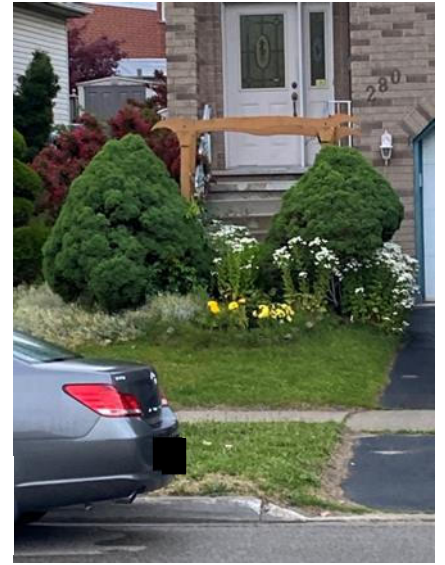
The definition proceeds to state that a building, trellis, arbor, pergola, arch, gazebo, or obelisk are not considered privacy screens. However, as explained above, we would argue that the structure is not actually an arbour or commonly recognized lawn

feature. A genuine arbour might be partially enclosed by vines and plants or by trellis, but not completely covered by lumber. In our estimation, the Applicant’s structure was minimally given some attributes of a lawn feature of sorts as a pretence for a privacy screen.

Below: Neighbourhood arbours that help provide privacy in conjunction with plants and bushes.



Left: 179 Carson Drive



Right: 280 Keewatin Avenue

Whereas an arbour that serves the purpose of privacy is accessorized with climbing vines and plants, the Applicant's structure attempts to achieve privacy by itself. For that reason, the structure must assume the form that it has – a tall wall-of-wood.

A variance under the Zoning Bylaw for a structure that has the appearance, size, and stated purpose of a privacy screen is to create a violation under the Municipal Code. The proper replanting of a few cedar trees would provide a more esthetically pleasing form of privacy.

Moreover, there is risk of the structure becoming a full-fledged fence where the 3-foot gap between the structure and existing fence is filled with a small panel of wood. The structure's wall-of-wood and the fence are lined-up squarely along the property line. The materials are the same. It would not take much for the small space to be covered. There would result an 8-foot-high fence that projects 12 feet into the front yard – all under the pretext of an "arbour".



Above Left: The distance between the privacy barrier and fence is only about 3 feet. They are aligned directly on the property line.



Above Right: A simulated but realistic depiction of the gap if it is filled in.

Even as a privacy screen, alone, we argue that there are more appropriate, less visually incongruent options available. In the same search area for arbours discussed in part 4 above and in Appendix B, we found even fewer privacy screens on front lawns – only three. They are illustrated in the photographs below.

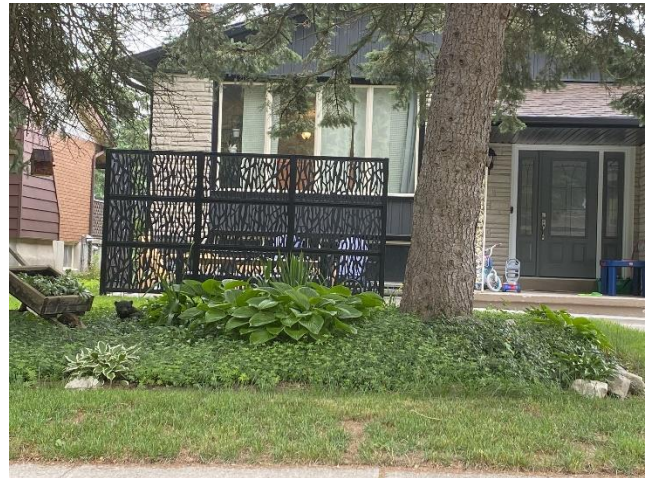


Left: 18 Strathcona Cr.



Right: 8 Nipigon St.

Neither of the three about a neighbour's property and they project minimally into the front yard. Further, with thin profiles, they are barely noticeable. We do not know whether these structures are strictly permitted according to the Municipal Code. But, even if they were in violation, we see how an exception or variance would be allowable and even desirable. They are tasteful and do not present unacceptable visual impacts on adjoining properties.



Above: 331 Carson Dr.



45 Nipigon St.

The privacy screen on the left at 45 Nipigon St. is actually in the side-yard, not the front. It is, however, an example of a privacy screen that would be a good fit on the front yard, likely with the full concurrence of neighbours given the quality of its build.

As a privacy screen, the subject structure is a complete outlier and over-the-top. Nothing similar could be found in our search area. More appropriate options are available. A less bulky form could be set further within the subject property rather than pressed up against the neighbour's yard. **Indeed, it would be rare to find a tall wall-of-wood on the property line either as a privacy screen or arbour.**

The Four Tests

The structure's various characteristics render it an inappropriate form for the Applicant's front yard. We do not believe that structure meets the requirements of all parts of the Four Tests for minor zoning variance.

1. Is the proposed variance in keeping with the general intent and purpose of the Zoning By-law?

Whereas accessory structures should normally be restricted to back and side-yards, there may exist circumstances related to size, appearance or location that would not result in grave incompatibility with the Zoning Bylaw if they were built on front yards.

- Because of its disproportionate size and placement next to the property-line, the subject structure is highly visible to the adjacent property (us) and the street, especially on the north and east sides. There is no screening or buffering to moderate its visual encroachment on the neighbouring property and streetscape.
- The irregular workmanship does not lend itself to a place of prominence such as the front yard.
- Its bulk and the wall-of-wood that encloses the north side give the structure the constitution and appearance of a shed, or a crate, or otherwise a built form that would be expected on a back or side-yard, not the front.
- The structure cannot be considered to be an arbour or commonly recognized lawn and yard feature. Rather than accenting the small, landscaped area, it dominates it.

2. Does the proposed variance maintain the general intent and purpose of the Official Plan?

The Official Plan requires that new buildings, additions, and/or modification to existing buildings are appropriate in massing and scale and are compatible with the built form and the community character of the established neighborhood.

- Whereas a structure that is truly an arbour or commonly recognized lawn feature might normally be compatible with the streetscape and the community character, the subject structure is a complete outlier. Nothing of its size, bulk and appearance can be found on a front yard in the immediate and extended neighbourhood.
- In correspondence with the existing fence, the structure presents as something fortress-like – an entrance into a barricaded property that would more properly fit a commercial or industrial area. The structure dominates its environment rather than being subordinate to it.
- The irregular workmanship sets the arbour in stark contrast to the modest, but well-appointed yards of the neighbourhood.
- The totality of characteristics related to size, appearance and placement casts the structure as highly incongruent and disharmonious with the streetscape and neighbourhood character.

3. Is the variance desirable for the appropriate development or use of the land, building or structure?

We believe that the structure is unacceptably detrimental to the adjacent property (us) and the larger public interest.

- Unmitigated by buffering and screening, the structure's bulk, irregular workmanship and placement next to the property line present an inescapable visual affront to the next door neighbour (us).
- Difficulty accessing the north-side of the structure may cause required repair and maintenance to be foregone or delayed.
- The structure has already incurred on our property. Due to the unconventional and tenuous manner in which the structure is held in place with virtually no setback, the structure is poised to re-incur on our property.

- The structure has the form, function and stated purpose of a privacy screen. To permit a variance under the Zoning Bylaw is to cause an infraction under the Municipal Code. Privacy can be readily achieved by a few cedar trees or by more appropriate options as currently exist in the neighborhood.
- A variance would create an unfavourable precedent for similar structures to be built on front yards where none currently exist.

4. Is the variance minor in nature?

In light of the multiplicity of issues described in our submission, we contend that the variance is major in nature. The structure rightly belongs in a back or side-yard as required by the Zoning Bylaw. We do not find any mitigating quality in terms of appearance, size, and placement that reasonably suggests it is suitable for a front yard.

The Applicant, themselves, appear to have recognized that the structure has a harsh aspect that needed to be tempered. To that end, on their side only, the Applicant installed a decorative metal insert on the interior of the north-side wall. While the Applicant may enjoy some relief from the structure’s visual impact, we and the neighbourhood must endure an entirely different vista. From our side, the view is one of a large, looming wall-of-wood that is accentuated by irregular workmanship.

The form and appearance of the structure is true to its purpose as revealed on the application for minor variance. The application states that the purpose for the structure is *“to enhance **our** property...”* and *“making **our** property much better.”* Although there is a concern for the enhancement of the Applicant’s own property, no mention is made of concern for other properties.



Above: ornamental metal insert. Once the north-side was covered with lumber, the insert became visible only for the Applicants.



The Applicant has the right to enhance their property. But, it cannot be done at the expense of other properties. In the design, construction, and placement of the structure, the Applicant needed to show a modicum of regard for the impacts on the neighbour and the neighbourhood.

We are left to accept that the structure was built with the same disregard for the impacts on others as the fence with protruding nails.

In our view, the structure – like the fence – has an antagonistic, harsh posture that is exceedingly inconsistent with the friendly, family-oriented neighbourhood. Pressed against the property line, it presents as an unsettling visual encroachment that looms over our lot and threatens to incur on it.

Conclusion

Although our opposition it is not solely a question of principle and inequity, these factors are not inconsequential, either. To allow the Applicant’s structure to stand in error would be highly inequitable when our proposed structure was significantly more consistent with commonly recognized lawn features. Because we could not build an arbour, we accepted a less desirable option at great expense. In fairness, we should be allowed to build an arbour of our own with the applicable fees waived. But, even if we could have parity with the applicant, we cannot afford it. We have too much money already sunk with the three-foot fence. We would be monetarily aggrieved if the Applicant was allowed to keep the structure under the circumstances that ours was denied.

We return to the structure’s merit as a front yard feature.

It is difficult to fathom how the Applicant’s structure could be permitted on an exemption basis in light of the reasonable alternatives:

- Our proposed arbour that was denied.
- Commonly recognized lawn features in the media/Internet.
- Arbours and Lawn features that currently exist in the neighbourhood



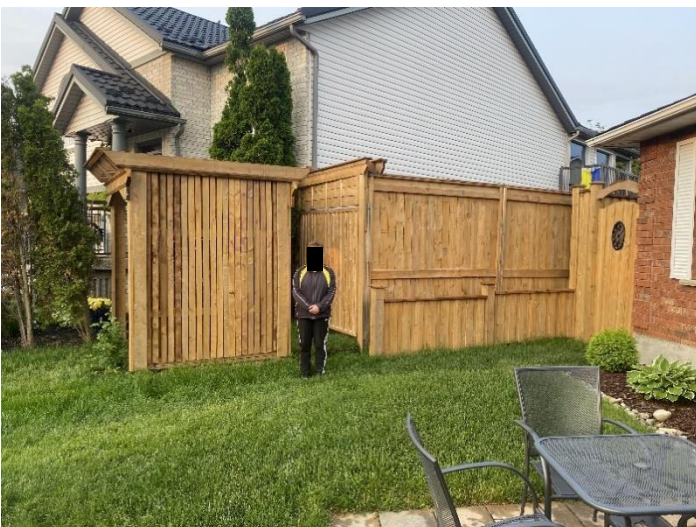
Left: Lawn features found in the neighbourhood – 236 Nomad Ct.

Right: Lawn feature we were denied



Below Right: Commonly recognized lawn feature

Below left: What is asked to stand as an acceptable front lawn feature



Home – Outdoors – Yard & Garden Structures

What Is An Arbor: What To Know Before You Buy

Kimberley McGee
Updated: May 16, 2023



The Applicant's structure is "over-the-top" in comparison to either of the three alternatives. It is a leap in mass, size and visual encroachment into the streetscape that cannot be reconciled with even a generous notion of what might be allowed.

To permit the structure to remain as a convenient fix to an error would result in an inappropriate application of the Zoning Bylaw given the imbalance with what was disallowed and what is currently found in the neighbourhood.

We are sympathetic to the fact of an error. Municipal employees have a difficult, complex, job in which multiple interests need to be balanced. We all make mistakes in our professional lives. Our concern is not that an error was made but rather with the way that you are asked to resolve it.

It cannot be overlooked that the Applicant sought guidance before building the structure. This is not a situation in which permission was requested after the fact. Rather, this is a case in which there was ample opportunity to influence the outcome. Even if the Applicant insisted on building a lawn feature of sorts, Planning could have counselled the Applicant about building a structure in a manner that better considered the interests of neighbours, thereby making the structure more amenable to a minor variance. Even then, the \$1,600 application fee for minor variance would have presented an impediment.

But, the fee was waived, and the structure was built without any influence from Planning that might have led to a moderation in some of the structure's questionable attributes – disproportionate bulk, wall-of-wood, placement on the property-line. With Planning's influence, for example, the structure could have been built with a setback to allow some visual separation and room for screening to temper the "wall-of-wood." Instead, the structure was built with only the Applicant's interests fulfilled – to enhance "their" property, solely.

We ask the Committee of Adjustment to reject the request for minor variance as a convenient fix to an impactful problem. This situation calls for a complete "do-over" – to restore the original conditions and to proceed from that point in a deliberate and methodical manner that balances all interests. Yes, the Applicant may need to be given compensation for time and materials. This would be fair and appropriate.

In that way, a more suitable lawn feature would result, if any at all. It would also remove the appearance of a pecuniary interest. There would be no reason to think that the application is being approved as a financial consideration – that the structure is approved less on its merits and more so to avoid a financial outlay for a mistake.


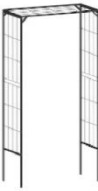
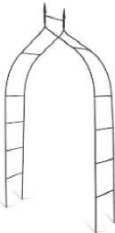
















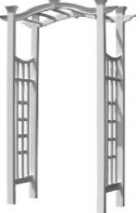
To preserve the integrity of the planning process, including the fair application of the Zoning Bylaws, this matter should be resolved by ordering the structure removed with appropriate restitution to the Applicant. The process should be re-commenced with proper guidance and the option for the Applicant to proceed to a minor variance in consequence of the guidance and the requirement to pay the \$1,600.00 fee.

We look forward to addressing the Committee of Adjustment at the forthcoming meeting. We would be glad to respond to any questions you may have.

Sincerely,

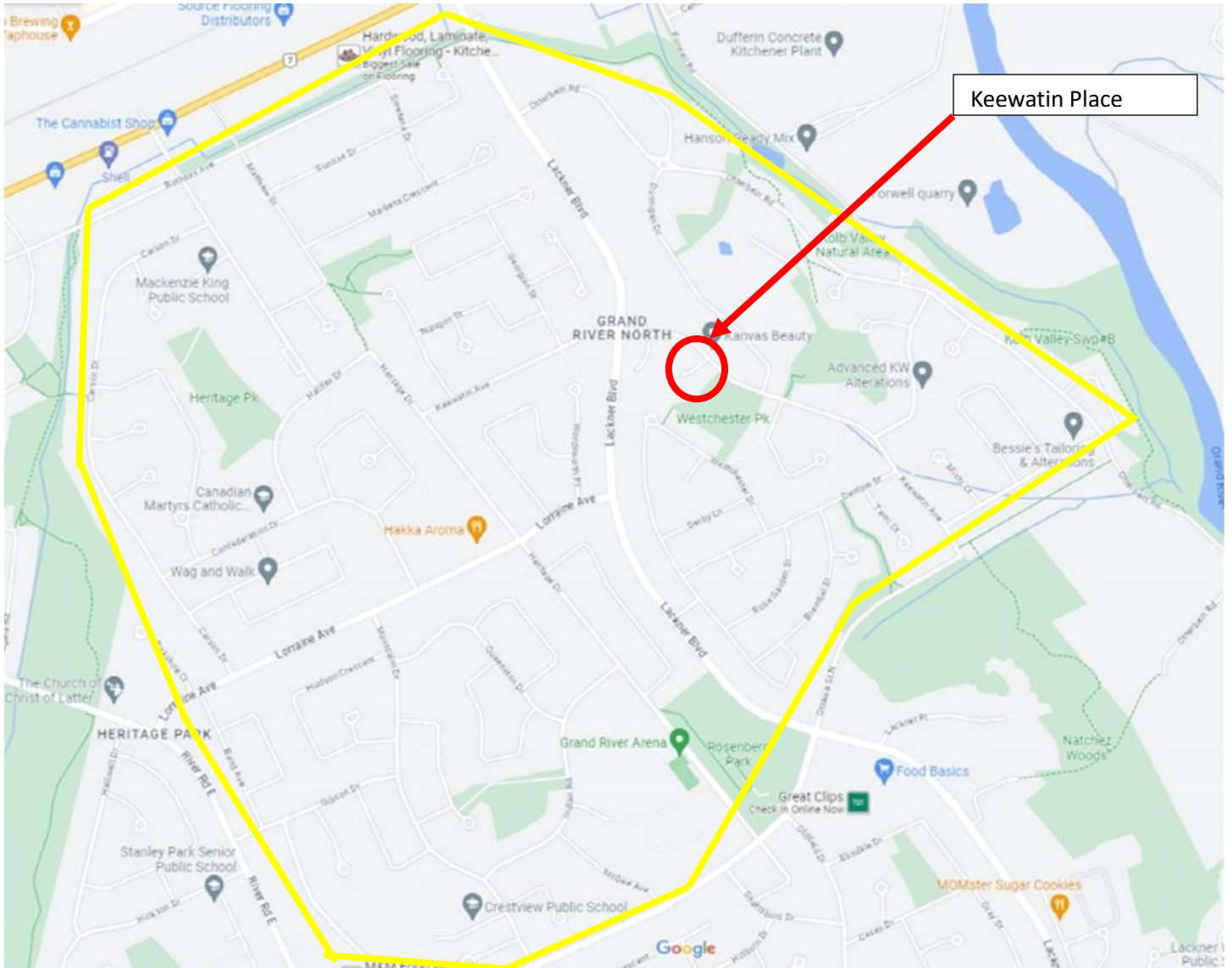
Elaine and Dario Cecchin

Appendix A – Arbours Sold by Home Depot

 <p>Vita Carolina 57"L x 24"W x 88"H Embossed Vinyl Arbor, Brown Model # VA84070 SKU # 1000778816 ★★★★ (25) \$517⁰⁰ / each ✓ FREE Delivery ✓ FREE Ship to Kilchener</p> <p>Add To Cart</p>	 <p>Peak Gardenware 97-inch H x 24-inch Depth Steel Garden Arbor (Adjustable Width 36-inch, 42-inc... Model # 7461 SKU # 1001208495 ★★★★ (12) \$149⁰⁰ / each ✓ Delivery Today/Tomorrow ✓ 2 at Kilchener</p> <p>Add To Cart</p>	 <p>Costway 8'4" High x 4'7" Wide Steel Garden Arch Rose Arbor Climbing Plant Garden Model # GT2922 SKU # 1001698190 ★★★★ (2) \$149⁰⁰ / each ✓ Standard Delivery ✓ FREE Ship to Kilchener</p> <p>Add To Cart</p>	 <p>Vita Springwood 63"L x 46"W x 92"H Cedar Arbor, Golden Brown Model # VA68900 SKU # 1001635017 ★★★★ (1) \$1,239⁰⁰ / each ✓ Standard Delivery ✓ FREE Ship to Kilchener</p> <p>Add To Cart</p>	 <p>Vita Westwood 47"L x 18"W x 86"H Cedar Arbor, Golden Brown Model # VA68890 SKU # 1000711845 ★★★★ (159) \$469⁰⁰ / each ✓ FREE Delivery ✓ FREE Ship to Kilchener</p> <p>Add To Cart</p>
<input type="checkbox"/> Compare <input checked="" type="checkbox"/> Heart  <p>Vita Athens 39"L x 23"W x 81"H Vinyl Arbor, White Model # VA68111 SKU # 1000701736 ★★★★ (229)</p>	<input type="checkbox"/> Compare <input checked="" type="checkbox"/> Heart  <p>Vita Rosewood 47"L x 24"W x 89"H Cedar Arbor, Golden Brown Model # VA68894 SKU # 1000711846 ★★★★ (112)</p>	<input type="checkbox"/> Compare <input checked="" type="checkbox"/> Heart  <p>Vita Collingwood 43"L x 23"W x 81" Cedar Arbor, Golden Brown Model # VA68893 SKU # 1001719406 ★★★★ (2)</p>	<input type="checkbox"/> Compare <input checked="" type="checkbox"/> Heart  <p>Vita Dublin 45"L x 21"W x 82"H Vinyl Arbor, White Model # VA68101-1 SKU # 1000778814 ★★★★ (89)</p>	<input type="checkbox"/> Compare <input checked="" type="checkbox"/> Heart  <p>Vita Sierra 39"L x 23"W x 81"H Embossed Vinyl Arbor, Brown Model # VA68106 SKU # 1001441908 ★★★★ (21)</p>
<input type="checkbox"/> Compare <input checked="" type="checkbox"/> Heart  <p>Vita London 45"L x 21"W x 84"H Vinyl Arbor, White Model # VA68102-1 SKU # 1000693972 ★★★★ (64) \$249⁰⁰ / each ✓ FREE Delivery ✓ FREE Ship to Kilchener</p> <p>Add To Cart</p>	<input type="checkbox"/> Compare <input checked="" type="checkbox"/> Heart  <p>Vita Vienna 49"L x 24"W x 92"H Vinyl Arbor, White Model # VA68144 SKU # 1000701733 ★★★★ (57) \$449⁰⁰ / each ✓ FREE Delivery ✓ FREE Ship to Kilchener</p> <p>Add To Cart</p>	<input type="checkbox"/> Compare <input checked="" type="checkbox"/> Heart  <p>Outsunny 84.75" x 19" Garden Arch with Gate Door Decor Climbing Planter Frame Model # 844-287 SKU # 1001698806 ★★★★ (3) \$329⁰⁰ / each ✓ Standard Delivery ✓ FREE Ship to Kilchener</p> <p>Add To Cart</p>	<input type="checkbox"/> Compare <input checked="" type="checkbox"/> Heart  <p>Vita Fairfield 58"L x 32"W x 87"H Vinyl Arbor, White Model # VA84226 SKU # 1001441905 ★★★★ (2) \$929⁰⁰ / each ✓ Standard Delivery ✓ FREE Ship to Kilchener</p> <p>Add To Cart</p>	<input type="checkbox"/> Compare <input checked="" type="checkbox"/> Heart  <p>Vita Fairfield 58"L x 32"W x 87"H Vinyl Arbor with Trim Kit, White Model # VA84228-2 SKU # 1000732022 ★★★★ (1) \$1,029⁰⁰ / each ✓ Standard Delivery ✓ FREE Ship to Kilchener</p> <p>Add To Cart</p>
<input type="checkbox"/> Compare <input checked="" type="checkbox"/> Heart  <p>Vita 45"L x 23"W x 84" H Cardiff Vinyl Arbor, White</p>	<input type="checkbox"/> Compare <input checked="" type="checkbox"/> Heart  <p>Vita Westhaven 57"L x 24"W x 88"H Vinyl Arbor, White</p>	<input type="checkbox"/> Compare <input checked="" type="checkbox"/> Heart  <p>Vita Livingston 49"L x 24"W x 92"H Vinyl Arbor, White</p>	<input type="checkbox"/> Compare <input checked="" type="checkbox"/> Heart  <p>Vita Nantucket Deluxe 60"L x 30"W x 94"H Vinyl Arbor, White</p>	<input type="checkbox"/> Compare <input checked="" type="checkbox"/> Heart  <p>Vita Florence 49"L x 24"W x 88"H Vinyl Arbor, White</p>

Appendix B - Search Area for Similar Structures

We looked extensively throughout the City of Kitchener to determine the kinds of garden features could be found on front yards. We found no structure similar to the Applicant's. In recent weeks we focused our search to the immediate and extended neighbourhood as depicted in the map below. The search area consisted of Grand River North and most of Heritage Park. It is bounded by Otterbein on the north, Ottawa to the east, River and Carson on the south, and Rothsay on the West.



We found only a handful of arbour-like structures on front yards. And, none were of the mass and size of the subject structure. The following page illustrates the entirety of arbours found -10 of them.

It will be noted that they project minimally into their respective front yards. They have a small profile – approximately 2 to 3 long and 4 feet wide. Furthermore, they are not closed-in, but mostly open. They are constructed of light-weight components. Finally, none abut a neighbouring property.

Arbours & Lawn Features Found in the Neighbourhood



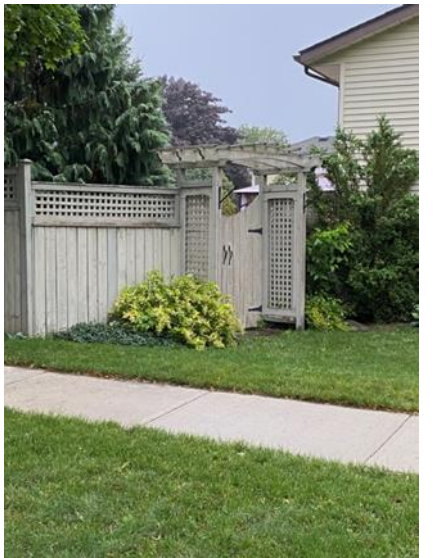
280 Keewatin Ave.



215 Lorraine Ave.



105 Westchester Dr.



236 Nomad Ct.



179 Carson Dr.



75 Tecumseh Cr.



48 Denlow St.



82 Strathcona Cres.



15 Dineen Crt.



547 Otterbein Rd.

From: [REDACTED]
Sent: Thursday, June 8, 2023 10:22 AM
To: Garrett Stevenson <Garrett.Stevenson@kitchener.ca>
Subject: Accessory Structure at 920 Keewatin Place

Good morning, Mr. Stevenson.

I am writing for an update on this matter. It was suggested by Officer Stott that I correspond directly with you because your department is involved once again.

After the matter was referred to your department by Enforcement, the accessory structure was deemed to be in violation of the zoning by-law. Officer Stott was going to be working with Mr. Bradbury to seek compliance. Subsequently, we heard that the matter was escalated to the Director of Enforcement. Now, it's back to you, apparently.

We initiated the complaint about 7 weeks ago when we saw that Mr. Bradbury built a structure on his front lawn that was the same as one that we had been previously denied. As such, we rightly have standing in this matter and merit being kept informed. Yet, seven weeks have gone by and the only feedback we've received is contradictory and ambiguous.

Respectfully, could we please receive a substantive update as soon as possible.

Please refer to the attachment for some photographs and commentary.

We'd be glad to meet with you. Alternatively, you may call us at 613-922-1893.

Sincerely,

Appendix – Photographs

The Fence at 920 Keewatin Place

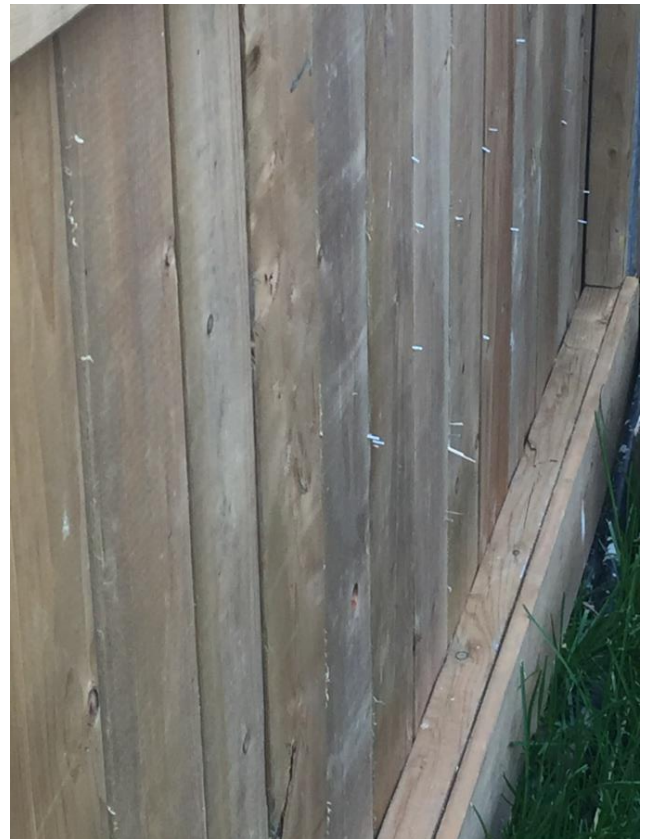
Mr. Bradbury built a fence in the spring of 2022 in the side yard between our two properties. On our side of the fence there are countless nails and screws that protrude through the lumber along the entire length. In addition to the hazards, the fence was rendered exceedingly unsightly by a number of characteristics some of which are depicted by the photographs below. The hazards and disfigurements give the impression of being purposely done.



Left:

A 1x6 deck board was used as stringer instead of conventional 2x4 or 2x6 lumber. Because it was too short, a random piece of lumber was joined to it by a diagonal board that also served as a kind of brace against the ground.

Metal posts resembling parking sign posts were used instead of conventional 4x4 or 6x6 posts. As a result, the fence wobbled and shook. It needed to be braced in unconventional methods in several locations.



Right:

The protruding nails are a hazard to children, wildlife and pets that might inadvertently brush up against the fence.

A real estate agent advised us to conceal Mr. Bradbury's fence with one of our own.

Accordingly, we built an 8-foot-high fence parallel to Mr. Bradbury's. Because of the pie-shaped configuration of our lots, Mr. Bradbury's fence extended past the corner of our house by eight feet. As such, our 8-foot-high fence could only be built to the corner of our house.

Our Fence and Intended Pergola

Right:

The intent of the pergola was to hide the portion of Mr. Bradbury's fence that extended past the corner of our house, where we were limited to a three-foot-high fence. Because we could not build a pergola, we built the fence to only a three-foot height. It was not ideal but at least it mitigated the hazards.

We have consistently abided by Municipal by-laws and the guidance given us by Planning and Enforcement.

Even if we were now allowed to build a pergola or 8-foot-high fence, we would not be able to afford it. Our resources were expended on the three-foot-high fence, which was expensive. To install a pergola or higher fence, we would have to incur the sunk costs of the existing fence and the cost of its removal – all on top of the cost of the pergola.



Left:

This is the pergola that we wanted built by Heritage Design – a highly reputable and skilled company. It has small foot print – about 4 feet by 4. Its sides were mostly open. It had the appearance of an ornamental and decorative feature rather than a “structure”.

Mr. Bradbury's pergola is nowhere in the same league in appearance, design, and quality of build as this one. Yet, ours was not permitted.

In fairness to the municipality and the planner who counselled us, to the best of our research, neither our intended pergola nor Mr. Bradbury's can be found in a front yard of a residence in the City of Kitchener. We looked extensively, but could find none, remarkably.

The incursion of Mr. Bradbury's Pergola on our Property



In August 2021, we had our property surveyed in preparation for landscaping later in the year. The survey was conducted by JD Barnes - a certified Ontario land surveyor.

Mr. Bradbury relied on the surveyed lot line to install his fence posts. The pieces of rebar covered by water bottles were inserted by Mr. Bradbury for his current and future reference of the lot line.

After Mr. Bradbury built his fence in May 2022, he retained some of the property line markers, presumably for the pergola he installed most recently.



Mr. Bradbury's property line markers existed at the time the pergola was built.

As such, Mr. Bradbury knew exactly where the property line was located



We recreated the property line from metal markers embedded in the ground by the surveyor.

When a straight piece of lumber is extended perpendicular to the property line, it is seen that the arbour on the front side crosses the property line by approximately 4 inches.



When a straight piece of lumber is extended perpendicular to the property line, it is seen that the arbour on the other side crosses the property line by about 2 inches.



The Pergola is Unsightly and Poorly Built

Mr. Bradbury saw us scrutinize the placement of the pergola relative to the property line.

He obviously concurred with our findings because he soon after cut the tips of the arbours and **pushed** the pergola toward his house. Two metal bars were hammered into the ground to keep the structure from being pulled back.

Note: the pergola is not anchored on cement piers. It is a floating structure.



Metal Rods

What kind of construction technique is this? It does not even rise to the level of amateurish. It will not hold the pergola in place indefinitely. The pergola will slide back onto our side, eventually, when the soil loosens.

There is potential for a property line dispute. Mr. Bradbury has incentive to keep the structure on his side while this matter is under consideration. If it is decided in his favour, we anticipate that Mr. Bradbury will not rectify another incursion outside of litigation or the threat thereof.

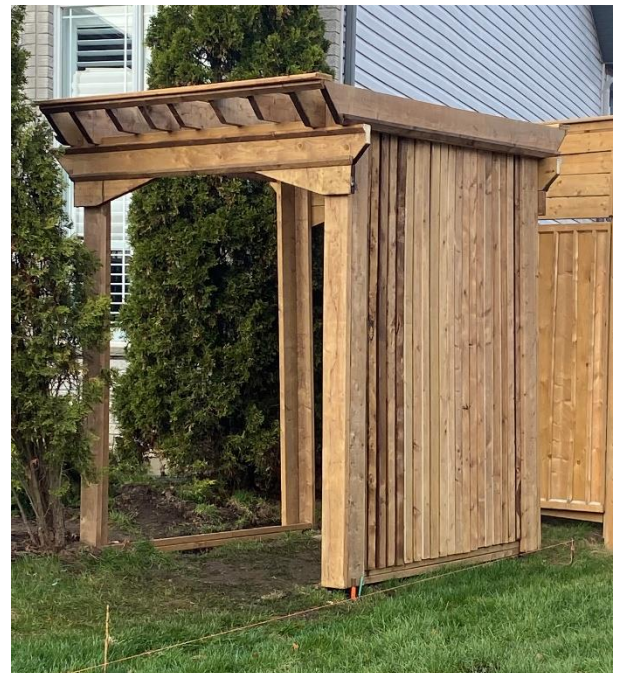


Cut Ends

The cut arbours render the structure asymmetrical and unfinished. The arbours on Mr. Bradbury's side remain intact. To build a pergola in this manner would be shameful to a professional.

Right:

The pergola's posts on Mr. Bradbury's side went askew after the structure was pushed onto the right side of the property line. They are no longer perpendicular to the top of the structure and the ground.





Left: The completed version of the pergola has vertical boards that completely enclose the side. Some of the boards are defaced by creosote.

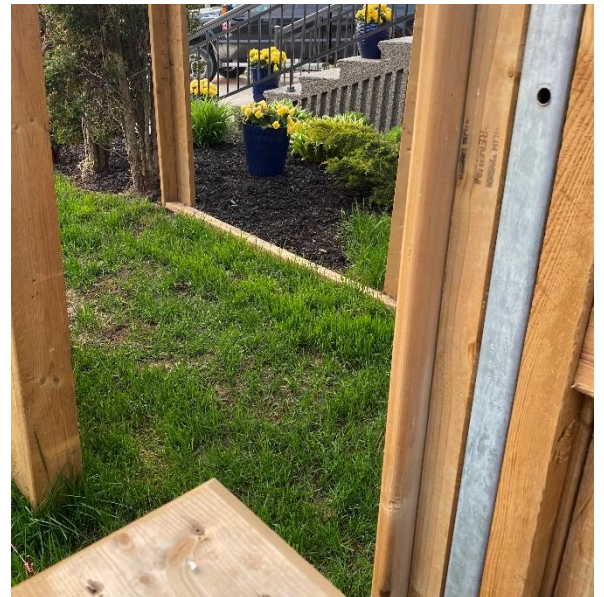
It has the appearance of a wooden crate.



Right: the pergola takes up about one-third of the remaining front yard. It is disproportionately large and overbearing.

Below Left: String line and rebar are becoming increasingly obscured by uncut grass on Mr. Bradbury's side. A tripping and impalement hazard is in the making.

Below Right: While our side of the pergola is becoming increasingly unsightly due to the overgrown grass, Mr. Bradbury's side is short and neat.



How does Mr. Bradbury intend on cutting the overgrown grass on his side of the pergola? As it stands, the grass is on the cusp of a Property Standards violation. Mr. Bradbury will not be allowed on our property to cut the grass. Similarly, we will not incur on Mr. Bradbury's property. Will the municipality enforce the Property Standards bylaw and how will Mr. Bradbury comply?

The Pergola is in effect an 8-foot-high Fence in Disguise



The distance between the pergola's post and that of the fence is only about 3-4 feet. They are aligned directly on the property line. We would not be surprised to see the gap filled with a short section of fence in the near future.

Once the gap is bridged, there is created an 8-foot-high fence that extends about 12 feet into the front yard.

The pergola is looking increasingly like a fence.



Left: *A simulated but realistic depiction of the gap after it is filled in.*

Will the municipality enforce the Fence bylaw?