



Department of Community & Development Services
1593 Four Mile Creek Road
P.O. Box 100, Virgil, ON L0S 1T0
905-468-3266 • Fax: 905-468-0301

www.notl.org

July 31, 2020

Michael Fox
6 Balmoral Drive
Niagara on the Lake, ON
L0S 1J0

RE: Tree removal application- AP-2020-234

This letter is to inform you that the tree inspection held on July 30, 2020 was inconclusive. Therefore, at this time, we are unable to issue a permit for the destruction of the tree.

Observations taken at the time of inspection revealed a healthy tree that has been identified as a White Cedar that measured approx. 16.51cm at breast height.

Without submission of an Arborist Assessment, I am unable to determine whether the tree would fall within the exemptions of Part 5 of the Private Tree Protection By-law 5139-19. If you are willing to submit a written assessment from a certified Arborist to confirm that the tree would fall within one or more of the exemptions as listed, the application will be re-opened and reviewed at that time.

You are advised that Section 13 of the Private Property Tree Protection By-Law states:

13.(1) If an Inspector refuses to issue a Permit, or if an Applicant objects to a condition attached to a Permit by an Inspector, the Applicant may appeal to the Committee. Such appeal shall be made by written notice received by the Inspector within seven (7) days after the date of refusal or the issuance of conditional Permit, as the case may be.

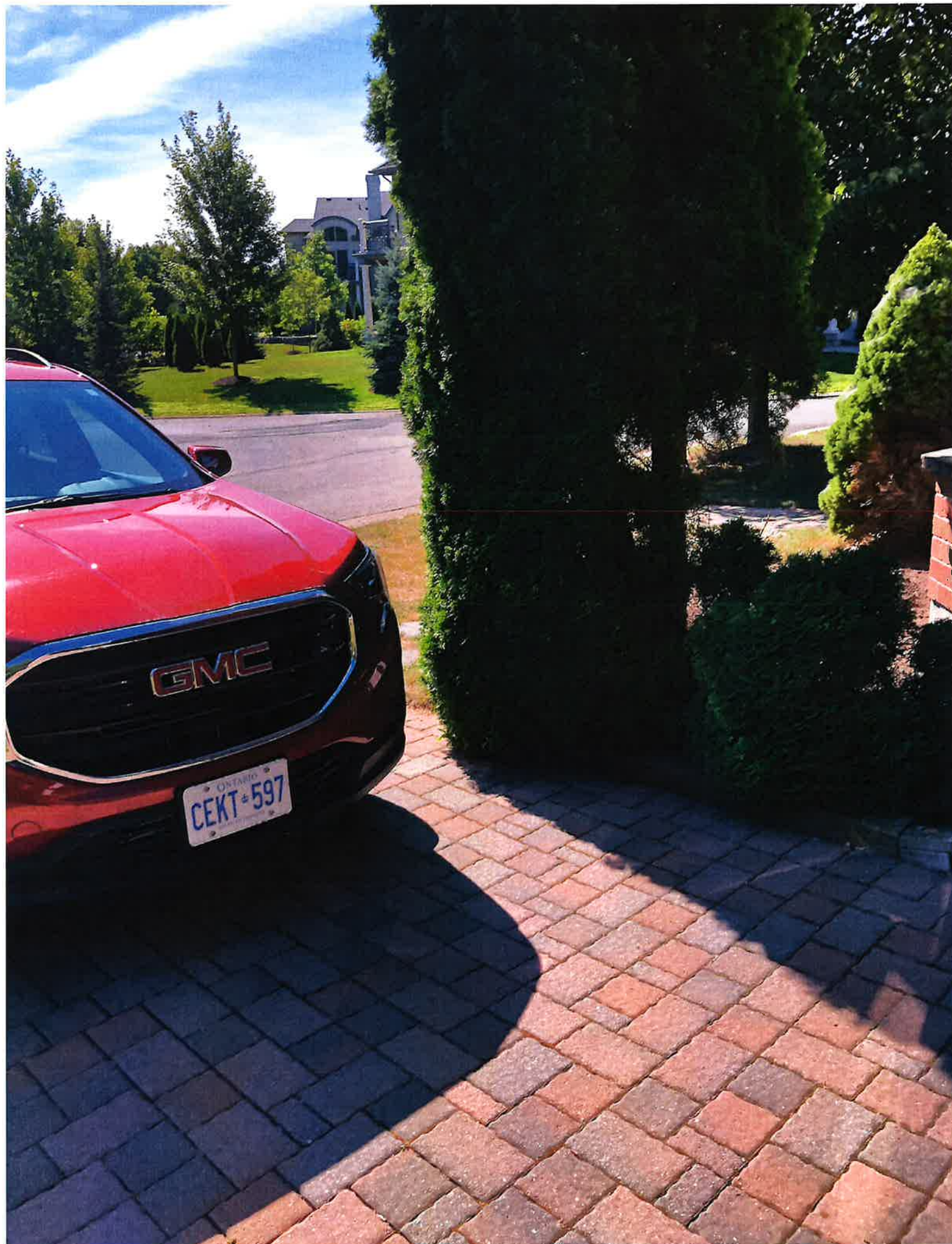
If you wish to appeal, you will need to submit a written letter by August 7, 2020.

If you have any further questions or concerns, please do not hesitate to contact me.

Kindest Regards,

Erin Dean
Municipal Law Enforcement Officer & Property Standards Officer
905-468-3266 Ex 279
erin.dean@notl.com









7/31/2020

Mail - Erin Dean - Outlook

To: Erin Dean <Erin.Dean@notl.com>
Subject: Fwd: Our trees

CAUTION: This email originated from outside the Town of Niagara-on-the-Lake. Use caution when clicking on a link or opening an attachment unless you know that the content is safe. If unsure, forward the email to IT to validate.

Hello Ms Dean,

This is a copy of an email I sent yesterday to Warwick Perrin, but received an automatic reply that he is no longer with the Town. I had previously submitted an application for a permit to replace two ornamental, foundation-planted trees. I am also forwarding to you:

1. A copy of his reply to our application, sent on June 30,
2. My reply to him sent on July 1. This posed questions which requested a response. We have been waiting for a reply, unaware he was no longer employed with the Town.

In the grand scheme of things this is a pretty trivial matter; all we want to do is replace two overgrown, damaged ornamental trees next to the foundation with two more appropriately-sized attractive trees. Had the previous owners pruned them appropriately, they would not have met the criteria of being a "regulated" tree. We think our plans should not even require a permit and we hope you agree.

I realize that you are probably swamped given Mr. Perrin's departure, but I hope you can give this your attention very soon. We are anxious to re-landscape the front garden, now.

Thank you

Sincerely,
Mike Fox,
6 Balmoral Drive, NOTL
905 937-2439

----- Forwarded message -----

From: **Mike and Judy Fox** <mandjfox@gmail.com>
Date: Wednesday, 8 July 2020
Subject: Our trees
To: Warwick Perrin <Warwick.Perrin@notl.com>

Hello Mr. Perrin,

Further to our email exchange last week regarding our desire to replace two pyramid cedars, I am anxious to complete our plans to redesign our front garden. I realize that with COVID-19 both NOTL staff and politicians have substantial issues to deal with. However, the best time to have pruned and trimmed our cedars (if that is what we decide to do) was June so that time has already passed. In our view pruning is not ideal, because it will be difficult to have an aesthetically pleasing outcome. The very narrow crowns of these trees are in good condition, but their heights need to be substantially reduced anyway and furthermore their bases are not in good condition because one side is bare. You mentioned in your email that the "By-law provides several reasons for the removal of a regulated tree" and that aesthetics are not one of them. Yet aesthetic value is a criterion mentioned in the preamble to By-law 5139-19. I see in Part V a list of permit exemptions, but those tell me situations in which I don't need a permit. In Part VIII, Issuance of Permits, there is a list of criteria you use in making your decision regarding issuing a permit. Only one criterion, (d), "reason or reasons for the proposed destruction of the regulated tree" could possibly apply in our case. If aesthetics is not a good enough reason I would appreciate knowing what would be a good enough reason. As I said previously, our preference is to replace these trees than than prune them, and I emphasize the word "replace". I should also point out that there is a large small-leaf linden tree close to the cedars in question. All these trees were planted at approximately the same time, early 2000s. Since then the canopy of the linden has grown to cover at least one-third of the front lot. The cedars' pointed tips cover a minute proportion. And many other trees on the lot are rapidly extending their canopies.

I asked in my last message how I could appeal your decision. I'd still like to know please.

<https://outlook.office.com/mail/inbox/id/AAQkADgxZTY2ODY0LTk2NDdINGM4Ny05YWU1LTk1NGRkMmM4MzU2MgAQALyHboYWPAiFmWM%2FyvLWS4s%3D>

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Mail - Erin Dean - Outlook

I'd also like to know, please, what reasons you do accept for destruction of a regulated tree.

I would appreciate being able to see a way ahead on this issue very soon

Sincerely,

Mike Fox

The Town of Niagara-on-the-Lake remains under a state of emergency. For more information about what this means, as well as additional updates and resources, please visit notl.com/covid-19.

Given the high volume of communications coming in, your patience and understanding are greatly appreciated during this time.

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7/31/2020

Mail - Erin Dean - Outlook

Re: Our trees

Mike and Judy Fox <mandjfox@gmail.com>

Monday, July 27, 2020 1:54 PM

To: Erin Dean <Erin.Dean@notl.com>

CAUTION: This email originated from outside the Town of Niagara-on-the-Lake. Use caution when clicking on a link or opening an attachment unless you know that the content is safe. If unsure, forward the email to IT to validate.

Yes, thanks, please come at 10 am Thursday
Mike Fox
905 937-2439

On Monday, 27 July 2020, Erin Dean <Erin.Dean@notl.com> wrote:
Good afternoon,

I am available Thursday at 10am. Please let me know if that will work.

Thank you,

Erin Dean

Property Standards & Municipal Law Enforcement Officer

Town of Niagara on the Lake

Phone: 905-468-3266 ext. 279 Fax: 905-468-2959

[1593 Four Mile Creek Road](#), PO Box 100, Virgil, ON L0S 1T0

erin.dean@notl.com

From: Mike and Judy Fox <mandjfox@gmail.com>

Sent: Friday, July 24, 2020 10:15 AM

To: Erin Dean <Erin.Dean@notl.com>

Subject: Re: Our trees

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Thanks. Please, we would like you to inspect them because our preference is to replace them. If you regard them as simply replaceable, this would eliminate a step, and we want to complete the front yard project before the season ends.

As you have probably detected we are becoming quite frustrated with the process because we wanted to get on with the job at the beginning of July.

Thanks for your attention now

Mike and Judy Fox

On Friday, 24 July 2020, Erin Dean <Erin.Dean@notl.com> wrote:
Good morning,

Thank you for responding. If you have decided to prune the trees, it will not be necessary to visit the property. If you decide to remove them, I will need to inspect.

<https://outlook.office.com/mail/inbox/id/AAQkADgxZTY2ODY0LTk2NDctNGM4Ny05YWU1LTk1NGRkMmM4MzU2MgAQALyHboYWPAiFmWM%2FyvLWS4s%3D>

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7/31/2020

Mail - Erin Dean - Outlook

Thank you,

Erin Dean
Property Standards & Municipal Law Enforcement Officer
Town of Niagara on the Lake
Phone: 905-468-3266 ext. 279 Fax: 905-468-2959
[1593 Four Mile Creek Road](#), PO Box 100, Virgil, ON L0S 1T0
erin.dean@notl.com

From: Mike and Judy Fox <mandjfox@gmail.com>
Sent: Wednesday, July 22, 2020 5:07 PM
To: Erin Dean <Erin.Dean@notl.com>
Subject: Re: Our trees

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Hello Ms Dean,

Thanks for your response.

Given the elapsed time since our several emails of both two and three weeks ago, and my phone message to you on June 29, we assumed that it was of no concern to you. As we said previously we were anxious to complete our planned improvements for the front garden.

We wonder why two now unsuitable, damaged, overgrown, ornamental trees planted next to the foundation cannot be replaced with something more in keeping with the property without all this bureaucracy. It is insignificant to the Town's tree canopy, and in any case we planned to replace them with other trees, as already stated several times. Anyway, we have arranged to have them pruned in the next few days.

By all means come by to inspect them. We will make a point of being here between 9 am and 11 am on Monday, June 27. Please let us know if you will visit then.

Thanks,

Mike and Judy Fox.

6 Balmoral Drive

905 937-2439

On Wednesday, 22 July 2020, Erin Dean <Erin.Dean@notl.com> wrote

Good afternoon,

I apologize for the delay in my response. I would need to schedule an appointment to inspect the trees. I am available next week. Is there a day that would be best for you?

Thank you,

Erin Dean
Property Standards & Municipal Law Enforcement Officer
Town of Niagara on the Lake
Phone: 905-468-3266 ext. 279 Fax: 905-468-2959
[1593 Four Mile Creek Road](#), PO Box 100, Virgil, ON L0S 1T0
erin.dean@notl.com

From: Mike and Judy Fox <mandjfox@gmail.com>
Sent: Thursday, July 9, 2020 10:23 AM

<https://outlook.office.com/mail/inbox/id/AAQkADgxZTY2ODY0LTk2NDctNGM4Ny05YWU1LTk1NGRkMmM4MzU2MgAQALyHboYWPAtFmWM%2FyvLWS4s%3D>

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7/31/2020

Mail - Erin Dean - Outlook

Tree Permit Denial

Mike and Judy Fox <mandjfox@gmail.com>

From: Erin Dean

To: Erin Dean <Erin.Dean@notl.com>

CAUTION: This email originated from outside the Town of Niagara-on-the-Lake. Use caution when clicking on a link or opening an attachment unless you know that the content is safe. If unsure, forward the email to IT to validate.

Thanks Erin,

The bureaucracy involved for this small tree is laughable to the point of complete absurdity. Not your fault.

What if we wanted to install a small water feature (birdbath or similar) there? It would be far more ecologically friendly than a pool for which a tree destruction permit is available I believe. And what are the landscaping activities that are acceptable to acquire a permit?

Regards,

Mike Fox

On Friday, 31 July 2020, Erin Dean <Erin.Dean@notl.com> wrote

Good morning Mike and Judy,

Please see attachments.

If you have any further questions, please do not hesitate to contact me.

Regards,

Erin Dean

Property Standards & Municipal Law Enforcement Officer

Town of Niagara on the Lake

Phone: 905-468-3266 ext. 279 Fax: 905-468-2959

1593 Four Mile Creek Road, PO Box 100, Virgil, ON L0S 1T0

erin.dean@notl.com

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8/10/2020

Mail - Erin Dean - Outlook

RE: Extreme Frustration Re: Denial of a permit to replace an ornamental tree at 6 Balmoral Drive, Niagara-on-the-Lake, L0S 1J0

Craig Larmour <Craig.Larmour@notl.com>

To: Mike and Judy Fox <mandjfox@gmail.com>
Cc: Council <council@notl.com>; Rolf Wiens <Rolf.Wiens@notl.com>; Erin Dean <Erin.Dean@notl.com>; Sheldon Randall <sheldon.randall@notl.com>; Peter Todd <peter.todd@notl.com>
Hello Mr and Mrs Fox,

I am in receipt of your letter of appeal and have forwarded same to our Clerk, Peter Todd. Mr Todd will be in contact with you to arrange for you to address Council in this matter.

Regards,

Craig Larmour, BA, MCIP, RPP
Director of Community & Development Services
Town of Niagara-on-the-Lake
1593 Four Mile Creek Road
P.O. Box 100, Virgil, Ontario L0S 1T0
905-468-3061 ext. 243 Fax: 905-468-0301
Website: www.notl.org Facebook: @Town.of.NOTL
Twitter: @Town.of.NOTL & @NOTLfiredept



From: Mike and Judy Fox <mandjfox@gmail.com>
Sent: August 2, 2020 1:18 PM
To: Betty Disero <betty.disero@notl.com>; clare.cameron@notl.org; norm.arseneault@notl.com; Allan Bisback <allan.bisback@notl.com>; Gary Burroughs <gary.burroughs@notl.com>; Wendy Cheropita <wendy.cheropita@notl.com>; Erwin Wiens <erwin.wiens@notl.com>; John Wiens <john.wiens@notl.com>
Cc: craig.larmour@notl.org; Erin Dean <Erin.Dean@notl.com>
Subject: Extreme Frustration Re: Denial of a permit to replace an ornamental tree at 6 Balmoral Drive, Niagara-on-the-Lake, L0S 1J0

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Dear Lord Mayor and Councilors,

We write in extreme frustration at the irrational way that our case is caught up in the tree by-law and in the time it is taking to obtain a definitive decision on our application to replace an overgrown, ornamental tree planted next the foundation by another ornamental tree.

We regret that we have to bother you with this issue considering you are having to deal with much larger issues, but we sincerely hope you are able to proceed on this matter ahead of the time outlined in the Tree Appeal Procedure.

Summary:

Having moved into the property in May 2019 we wanted to re-landscape the overgrown front of the lot this summer. This involves replacing the existing ornamental trees and bushes.

On June 29 we left a message with the By-law enforcement unit, but we only got a site visit and some questions answered over four weeks later--on July 30. We immediately applied for a permit to remove the tree and replace it, but by return email the permit was denied. We sent our appeal to By-law Officer Dean on August 1, but received an "out-of-office until August 10" response. (We do realize that your staff need to take holidays!) We forwarded our appeal to Craig Larmour, hoping he could expedite matters, because if timelines in the appeal procedure run their course it's unlikely that you would not see our appeal for more than a week and that our hearing would be at the end of August or even later--the summer and our opportunity to landscape almost gone.

As outlined in the appeal, we contend that the Tree By-Law applied to overgrown, ornamental, even healthy trees, planted close to the foundation makes absolutely no sense when our aim of replacement is to improve aesthetics and at the same time still provide the similar environmental benefits to the original tree. Apparently we could obtain a permit to destroy a perfectly healthy deciduous tree with huge canopy to construct a

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Mail - Erin Dean - Outlook

pool (hardly an ecologically aware action), and yet we can't replace a tall-ish, skinny conifer with another ornamental or with a small water feature.

We consider this situation laughable, absurd. Our friends and neighbours, your constituents, agree with us. We hope that you do too and that you are able to use your discretion to grant a permit to replace the tree within a very short period of time so that we can proceed with our work on enhancing our front garden.

With respect, we would like you to consider adding in Part 5 (Permit Exemptions) of the tree by-law the following: "(I) any tree the base of which is within two metres of a foundation wall of a building."

Thanks for hearing us out. We really hope you are willing to move quickly on this.

Mike and Judy Fox
6 Balmoral Drive, NOTL
905 937-2439

----- Forwarded message -----

From: Mike and Judy Fox <mandifox@gmail.com>

Date: Sat, 1 Aug 2020 at 16:16

Subject: Appeal Re: Denial of a permit to replace an ornamental tree at 6 Balmoral Drive, Niagara-on-the-Lake, L0S 1J0

To: Erin Dean <Erin.dean@notl.com>

Hello Erin,

Please find below our appeal to Council for the denial of our permit to replace an ornamental tree with another.

We are sending an advanced copy, with additional commentary, to Councilors in hopes of expediting the process and hope you can assist us in this.

The attached photograph is part of the appeal.

Thanks,
Mike and Judy Fox
905 937-2439

----- Forwarded message -----