



# Hearing Committee Agenda

Thursday, October 17, 2024

Tom Davies Square

Councillor Signoretti, Chair

**\*CANCELLED**

6:00 p.m. Open Session Council Chamber / Electronic Participation

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1. Call to Order
2. Roll Call
3. Declarations of Pecuniary Interest and the General Nature Thereof
4. Managers' Reports
  - 4.1 **Hearing Committee Report for File 230906-000268 - Clearing of Yards Bylaw** 3  
This report provides a recommendation regarding a Notice of Non-Conformity issued to property 236 Autumnwood Crescent, Greater Sudbury, for trees located in the rear of the private property.
5. Members' Motions
6. Addendum
7. Civic Petitions
8. Question Period
9. Adjournment

## Hearing Committee Report for File 230906-000268 - Clearing of Yards Bylaw

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Presented To: Hearing Committee

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Meeting Date: October 17, 2024

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Type: Managers' Reports

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Prepared by: Melissa Laalo  
By-Law & Security

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Recommended by: General Manager of  
Corporate Services

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## Report Summary

This report provides a recommendation regarding a Notice of Non-Conformity issued to property 236 Autumnwood Crescent, Greater Sudbury, for trees located in the rear of the private property.

## Resolution

THAT the City of Greater Sudbury confirms the Notice of Non-Conformity issued to the owners of 236 Autumnwood Crescent, Sudbury, ON, pursuant to Section 20(1) of the Clearing of Yards Bylaw 2009-101 outlined in the report entitled "Hearing Committee Report for File 230906-000268 – Clearing of Yards Bylaw" from the General Manager of Corporate Services, presented at the Hearing Committee meeting on October 17, 2024.

## Relationship to the Strategic Plan, Health Impact Assessment and Climate Action Plans

This report refers to operational matters and has no direct connection to the Community Energy and Emissions Plan.

## Financial Implications

There are no financial implications with this report.

## Background

The Clearing of Yards Notice of Non-Conformity (herein referred to as "the Notice") was issued pursuant to the *Municipal Act 2001, S.O. 2001, c. 25*, as amended, (herein referred to as "the Act").

The Council of the City of Greater Sudbury enacted Bylaw 2009-101 cited as "the Clearing of Yards and Vacant Lots Bylaw" (herein referred to as "the Bylaw"). This Bylaw has been passed under the authority of the Municipal Act and prescribes minimum standards for the upkeep of yards. This By-law was enacted to ensure the safety of residents and the upkeep of yards and properties to prevent the degradation of the community and neighborhoods.

The Bylaw outlines the responsibilities of property owners related to their yards, enforcement options and remediation where there is non-compliance, inspection powers of the officer, the issuance of a Notice, the establishment of a Hearing Committee, and the procedures for an appeal of the Notice. Specific time frames and methods of notification are established in the Bylaw.

## **Facts and Evidence Supporting the Order**

On September 06, 2023, the City of Greater Sudbury Compliance and Enforcement Division received a complaint stating that trees located in the rear yard at 236 Autumnwood Crescent were a hazard. Case #230906-000268 was generated and assigned to the area Bylaw Enforcement Officer SAGLE for inspection. On September 14, 2023, Officer SAGLE attended the subject property to inspect the trees and further received an Arborist Report from Frank's Family Tree Service submitted by the complainants, which cited four trees for removal.

On September 28, 2023, a Notice on Non-Conformity with a compliance deadline of October 29, 2023, was issued pursuant to Section 20(1) of Bylaw 2009-101, the Clearing of Yards Bylaw, pertaining to the trees located in the rear yard at 236 Autumnwood Crescent. The Notice requires the property owner of 236 Autumnwood Crescent to perform the following action;

- a) To provide a written report by a Professional Arborist, licensed in the Province of Ontario, containing findings as to confirming the subject trees are not dead, diseased, decayed, or damaged;

**Or**

- b) To remove the subject trees located at the rear of the property.

On October 17, 2023, Officer SAGLE received a letter from the property owners Mr. and Mrs. DURHAM dated September 29, 2023, requesting that a General Manager complete a review of the Notice of Non-Conformity citing concerns of the location of the trees being on City property.

A review of the file was conducted by the Bylaw Services Coordinator, at the time M. LAALO, which resulted in the following findings;

1. Legal Services confirmed there was an easement owned by Hydro Electric Commission and Sudbury Cable Services (1977). However, Ontario Land Registry records indicate this easement was transferred to the property owners (DUNHAM) in 1983.
2. Licensed Surveyors with the Province of Ontario completed a survey of the location on October 27, 2023. The survey confirmed that the trees are located on private property, 236 Autumnwood Crescent.

On June 27, 2024, Manager M. LAALO responded to Mr. and Mrs. DUNHAM with the findings of the review and confirmed the Notice as written. The compliance deadline was further extended to allow for the property owner Mr. DUNHAM the opportunity to obtain an independent arborist report and to perform any work required should the report provide recommendations. Subsequent discussions onsite at the subject property, over the phone, and at Tom Davies Square took place with Mr. DUNHAM and information was provided with respect to the Notice of Appeal procedures.

The Notice of Appeal was submitted August 27, 2024, with the matter to be presented at the Hearing Committee meeting being held on October 17, 2024.

Attached to this report for the Committee's review and in support of the recommendation are the following;

- 1) Notice of Non-Conformity 230906-000268
- 2) Frank's Family Tree Service, Assessment Report, dated September 19, 2023
- 3) Letter from Mr. DUNHAM, dated September 29, 2023
- 4) Ontario Land Registry and Parcel Information, dated October 18, 2023



- 5) Survey conducted by City Registered Land Surveyors, dated October 27, 2023
- 6) Photos of the subject trees, date indicated on the photo.
- 7) Final Notice of Non-Conformity, dated July 31, 2024.

## **Conclusion**

Section 23(4) of the Bylaw sets out the powers of the Hearing Committee on an appeal of a Notice. Should a property owner wish to appeal to the Hearing Committee, the person appealing may present evidence and make submissions regarding the Notice. The Hearing Committee may confirm, amend, or revoke all or part of the Notice or may add conditions to a Notice if in the committee's opinion doing so would maintain the general intent and purpose of the by-law and of the official plan or policy statement. A decision of the Hearing Committee with respect to any Notice is final and binding, makes effect upon the rendering of the decision by the Hearing Committee and is not reviewable by City Council. In the event the Hearing Committee revokes the Notice, the Appeal fee shall be refunded.

Section 18 of the City of Greater Sudbury's Official Plan starts with the statement "Adequate and affordable housing for all residents is a fundamental component of Greater Sudbury's Healthy Community approach to growth and development. Further statements include the achieving diversity in the housing supply by maintaining a balanced mix of ownership and rental housing and addressing housing requirements for low-income groups and people with special needs. One of the objectives of the policy is to ensure that the City's housing stock provides acceptable levels of health and safety through enforcement of the property maintenance standards in all forms of housing. The intent and purpose of the Bylaw may also be determined through statements in the preamble; "Whereas the lack of upkeep of yards and vacant land can lead to the degradation of a neighbourhood and of a community and can represent a hazard to health and safety of the residents of a community."

It is for these reasons that the recommendation in this report is to uphold the Notice 230906-000268, dated September 28, 2023, to ensure that the owner of the property of 236 Autumnwood Crescent, complies with the clearing of yards standards as set out in the By-law 2009-101 by either providing an Arborist Report for the trees or by removing the trees located in the rear yard. Should the property owner fail to obtain an arborist report nor remove the trees, the City is prepared to hire a Licenced Arborist with the Province of Ontario to obtain a report and the cost of the report shall be billed to the property owner and collected by way of application to the property's tax roll. Should the arborist report recommend the removal of the trees, or part thereof, the City will require the work to be done by the property owner. Should the property owner fail to comply with the recommendations the City will remediate, and any costs associated with the remediation of the trees will be billed to the property owner and collected by way of application to the property's tax roll.

PO BOX 5000 STN A  
200 BRADY STREET  
SUDBURY ON P3A 5P3

CP 5000 SUCC A  
200 RUE BRADY  
SUDBURY ON P3A 5P3

## NOTICE OF NON-CONFORMITY

Issued pursuant to section 20(1) of  
City of Greater Sudbury By-Law #2009-101.

File # 230906-000268		
Date of Inspection: September 14 and 19, 2023	By-Law No.:2009-101	
Municipal address or legal description of property <input checked="" type="checkbox"/> Occupied <input type="checkbox"/> Unoccupied		
236 AUTUMNWOOD CRES NEELON CON 3 LOT 10 PLAN M1055 LOT 122 RP 53R8626 PART 5 PART 6 PCL 45362 IRREG 3431.00SF 32.66FR 11.51D		
Name of owners and mailing address		
DUNHAM CARMEN G DUNHAM WAYNE W 236 AUTUMNWOOD CRES SUDBURY ON P3B 3Z4		
DESCRIPTION OF NON-CONFORMITY	LOCATION	BY-LAW REFERENCE
No owner shall fail to keep his or her yard free and clear of objects, accumulations and conditions that create an unsafe condition, a health hazard, or an unsightly condition.	236 Autumnwood Crescent, Sudbury	4. (1)
No owner shall fail to remove any refuse on his or her yard, whether or not he or she caused or permitted the refuse to be on the yard.	236 Autumnwood Crescent, Sudbury	4. (2)
No owner shall fail to cut down and remove from his or her yard any dead, diseased, decayed, or damaged hedges, shrubs or trees.	236 Autumnwood Crescent, Sudbury  (Photos Attached, Tree Assessment Attached)	6. (2)
REQUIRED ACTION		
Following the above:		
1. Cut down and remove any dead, diseased, decayed, or damaged trees (photos attached)		
2. Remove domestic waste (tree cuttings and brush) upon removal of any trees.		
<u>OR</u>		
Provide a written report prepared by a Professional Arborist licensed to practice in the Province of Ontario containing findings as to confirming the trees are not dead, diseased, decayed or damaged		
There must be compliance with the terms and conditions of this notice before this date: <u>October 29, 2023</u>		

**TAKE NOTICE THAT if such repair or clearance is not done within the time specified in this Notice, the Municipality may carry out the repair or clearance at the expense of the owner. Section 22 (1).**

As per the City of Greater Sudbury User Fee By-Law, non-compliance of a Notice that is in default (past the compliance date) shall result in an automatic fee of \$230.00. Any requirement for remedial action shall result in an automatic fee of \$230.00. These fees shall be billed to the property owner and non-payment shall result in the amount being applied to the tax roll.

**APPEAL FROM NOTICE Section 23 (2)** – A person served with a Notice who disagrees with all or any part of its content, may submit an objection in writing to the General Manager within five business days of his or her deemed receipt of the Notice. The General Manager is authorized to conduct a review and to revoke, confirm or alter all or part of the Notice. Written notice of the decision of the General Manager shall be provided to the person who filed an objection.

**Section 23 (4)** – Where a person disagrees with all or any part of the content of a Notice as confirmed or altered by the General Manager, he or she may appeal to the Hearing Committee by submitting an appeal in writing addressed to the City Clerk within five business days of the date of deemed receipt of the General Manager's decision, along with an appeal fee, (as per 2023 User Fees: \$128.00 including HST)

**OFFENCE**

**Section 24 (1)** - Every owner who contravenes any of the provisions of this By-law, or fails to comply with a Notice to perform work under Section 20, (or as amended or confirmed by the General Manager or the Hearing Committee), is guilty of an offence and on conviction is liable to a maximum fine of \$5,000.00 as provided for in the Provincial Offences Act.

**Section 24 (2)** - For the purposes of this Section, each day on which a person contravenes any of the provisions of this By-law shall be deemed to constitute a separate offence.



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**Gerald Sagle**  
By-Law Enforcement Officer  
Greater City of Sudbury  
705-674-4455 ext. 4322  
gerald.sagle@greatersudbury.ca

Date Notice Served: September 28, 2023

 RN 749 296 605 CA

2621599 ONTARIO INC.  
 80 Normandy Court  
 Sudbury ON P3A 2E8  
 7059204567  
 frank@fftreeservice.com  
 GST/HST Registration No.: 769170887



**FRANK'S**  
 FAMILY TREE SERVICE

## Estimate

ESTIMATE # 1345  
 DATE 19-09-2023

ACTIVITY	QTY	RATE	AMOUNT	TAX
Tree assessment Assessment of mature poplar trees at 236 Autumnwood cres.	1	0.00	0.00	HST ON

The 4 poplar trees are quite large and have reached maturity. At maturity, poplar trees become very hazardous as the wood dries out and becomes extremely brittle causing large limbs to snap off easily in a storm.

There are several large dead & diseased limbs throughout all 4 trees. There is also indications of disease and rot in the main trunk of the trees. (attached are pictures of "trunk rot" we have observed)

Our recommendation is that the trees be removed asap, as several branches and large dead limbs have fallen and caused property damage, and could cause injury or death to someone if they were to be hit by a falling limb.

Tyler Soulliere,  
 Certified Utility Arborist  
 7058220691

SUBTOTAL	0.00
HST (ON) @ 13%	0.00
<b>TOTAL</b>	<b>\$0.00</b>

TAX SUMMARY





Friday, September 29, 2023 at 3:42:16 PM Eastern Daylight Time

**Subject:** Notice of Non-conformity, By-law No: 2009-101, File # 230906-000268

**Date:** Friday, September 29, 2023 at 3:23:15 PM Eastern Daylight Time

**From:** Wayne Dunham

**To:** stefany.mussen@greatersudbury.ca

**CC:** andrew.newan@greatersudbury.ca

**BCC:** billyleduc@hotmail.com

Sent by email (two recipients) and delivered by hand to "One Stop Services" Civic Square.

Stefany Mussen,  
Manager Corporate Security and By-law Services  
stefany.mussen@greatersudbury.ca

C.C. Andrew Newan,  
andrew.newan@greatersudbury.ca

Greater Sudbury,  
P.O. Box 5000 STN A,  
200 Brady St.,  
Sudbury On., P3A 5P3

September 29, 2023

Dear Stefany Mussen and/or Andrew Newan,

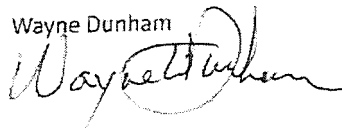
The trees in question are at the back of the property, that I (Wayne Dunham) and my wife (Carmen Dunham) jointly own. The address is: 236 Autumnwood Crescent. These trees were not planted by myself or by my wife, Carmen. These trees are, for the most part, not on our property. Further there is a drainage ditch in the area behind those trees. This ditch has been unmaintained for the entire 41 (forty one) years, that we have owned the property. These Poplar trees are almost 60 (sixty) feet high and 3 (three) feet across at the base.

Further, I am over 72 (seventy two) years old and well beyond doing the City's work for them. When first approached by a By-law officer, more than several years ago, regarding same issue: it was agreed at that time, most residents in the area are using land beyond their title and with fence boundaries being very misleading. When I built my shed it was several feet inside the property line at the back and the trees are beyond that, mostly still outside my property.

Again, I reiterate, that the Poplar trees are not on my property and any remedial action regarding the trees should be made by the City at their expense.

Kindest Regards,

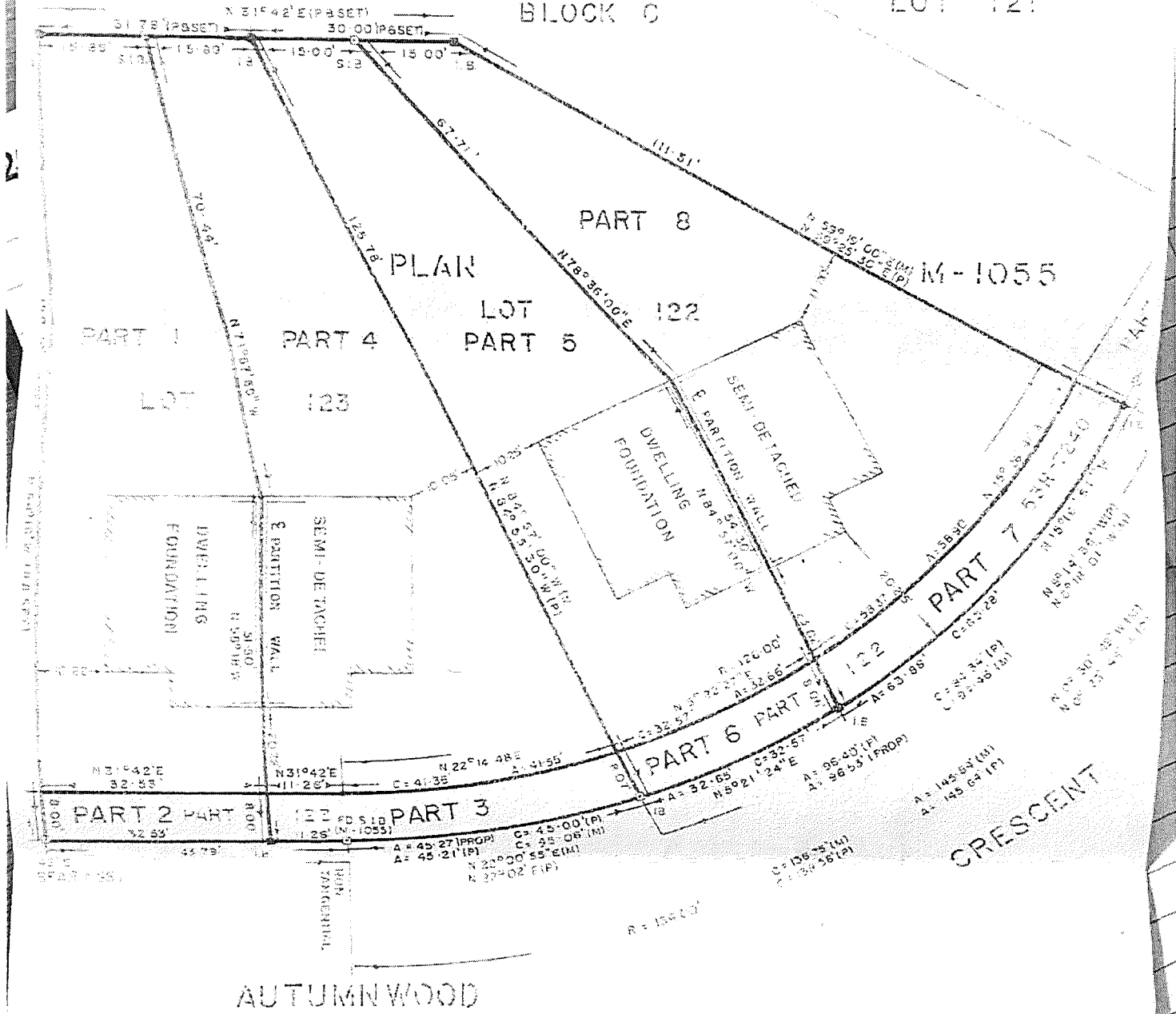
Wayne Dunham





BLOCK C

LOT 121



LEGEND

FROM THE BEARING OF  
 WESTERLY LIMIT OF  
 PLAN M-1055 REGISTERED  
 AT SUDBURY

- (R) DENOTES REGISTER
- (P) DENOTES PLAN
- (M) DENOTES MEASURED
- S.I.B. DENOTES IRON BAR 1" SQUARE 48" LONG
- S.S.I.B. DENOTES IRON BAR 1" SQUARE 24" LONG
- R.B. DENOTES IRON BAR 1" SQUARE 8" LONG IN ROCK
- I.B. DENOTES IRON BAR 5/8" SQUARE 24" LONG
- X C.C. DENOTES CUT CROSS
- DENOTES WOOD STAKE

I HEREBY CERTIFY

1. THAT THIS SURVEY AND PLAN ARE CORRECT AND WITH THE SURVEYS ACT AND THE LAND USE REGULATIONS MADE THEREUNDER
2. THAT THE SURVEY WAS COMPLETED ON 1 AUGUST 1979

DATE: SEPTEMBER 25, 1979

LANF AND LANF LIMITED

LAND  
REGISTRY  
OFFICE #53

73577-0181 (LT)

PAGE 1 OF 1  
PREPARED FOR CDawe001  
ON 2023/10/18 AT 11:53:08

\* CERTIFIED IN ACCORDANCE WITH THE LAND TITLES ACT \* SUBJECT TO RESERVATIONS IN CROWN GRANT \*

**PROPERTY DESCRIPTION:** PCL 45362 SEC SES; PT LT 122 PL M1055 NEELON PT 5, 6, 53R8626; S/T INTEREST IN LT474716; S/T LT421793, LT421794; GREATER SUDBURY

**PROPERTY REMARKS:** PLANNING ACT CONSENT AS IN LT474716.

**ESTATE/QUALIFIER:**  
FEE SIMPLE  
ABSOLUTE

**RECENTLY:**  
FIRST CONVERSION FROM BOOK

**PIN CREATION DATE:**  
2003/10/27

**OWNERS' NAMES**  
DUNHAM, WAYNE  
DUNHAM, CARMEN

**CAPACITY SHARE**  
JTEN  
JTEN

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/CHKD
** PRINTOUT	INCLUDES ALL	DOCUMENT TYPES (DELETED INSTRUMENTS NOT INCLUDED)	**			
LT421793	1977/06/10	TRANSFER EASEMENT			THE HYDRO-ELECTRIC COMMISSION OF THE CITY OF SUDBURY	C
LT421794	1977/06/10	TRANSFER EASEMENT			SUDBURY CABLE SERVICES LIMITED	C
53R8626	1979/10/04	PLAN REFERENCE				C
LT517311	1983/01/14	TRANSFER	\$2		DUNHAM, WAYNE DUNHAM, CARMEN	C
LT919586	2001/10/12	CHARGE	\$79,500		NATIONAL BANK OF CANADA	C

NOTE: ADJOINING PROPERTIES SHOULD BE INVESTIGATED TO ASCERTAIN DESCRIPTIVE INCONSISTENCIES, IF ANY, WITH DESCRIPTION REPRESENTED FOR THIS PROPERTY.  
NOTE: ENSURE THAT YOUR PRINTOUT STATES THE TOTAL NUMBER OF PAGES AND THAT YOU HAVE PICKED THEM ALL UP.





53R8450 0169

0202 118

0205 119

0201 120

0215 121

0596

REG PLAN M-1055

0613

0613

0594 26

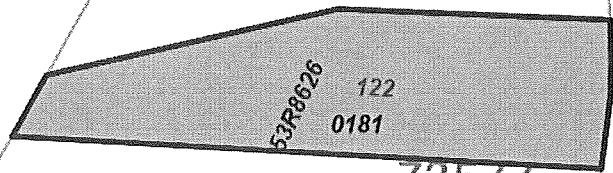
0599 25

0180 122

53R5267 0562

0591

0614



53R8626 122 0181

73577

123 0166

123 0165

0206 124

53R7240

0203 125

0200

0595

23

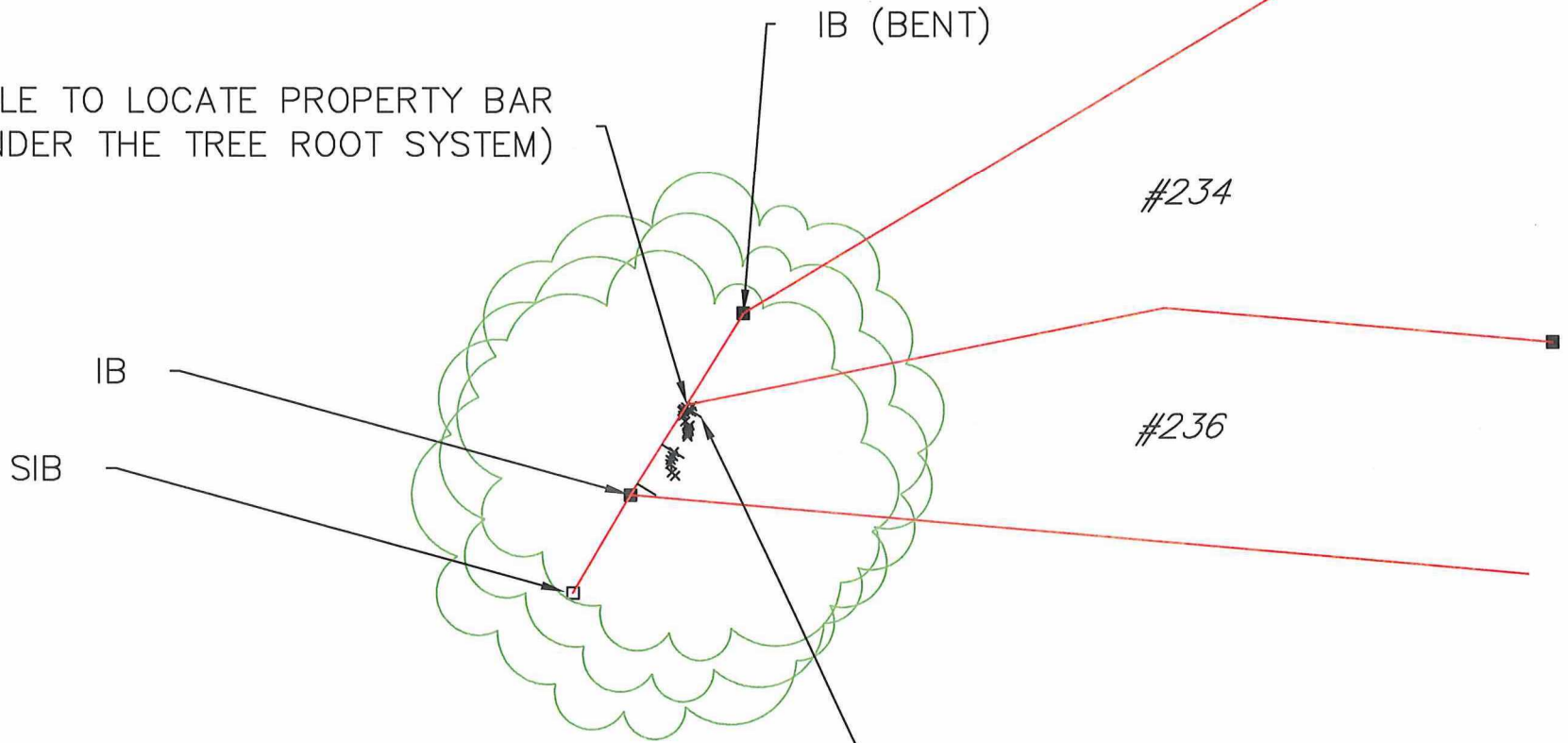
0623

53R11669

0219

53R8628

UNABLE TO LOCATE PROPERTY BAR  
(PRESUMED UNDER THE TREE ROOT SYSTEM)



CLOSEST TREE TO PROPERTY LINE  
IS APPROX 0.67M ON PRIVATE PROPERTY

# PLAN 53R-8626

RECEIVED AND DEPOSITED.

October 4, 1979 *David Orally*  
DATE DEP. LAND REGISTRAR FOR THE LAND TITLES DIVISION OF SUDBURY

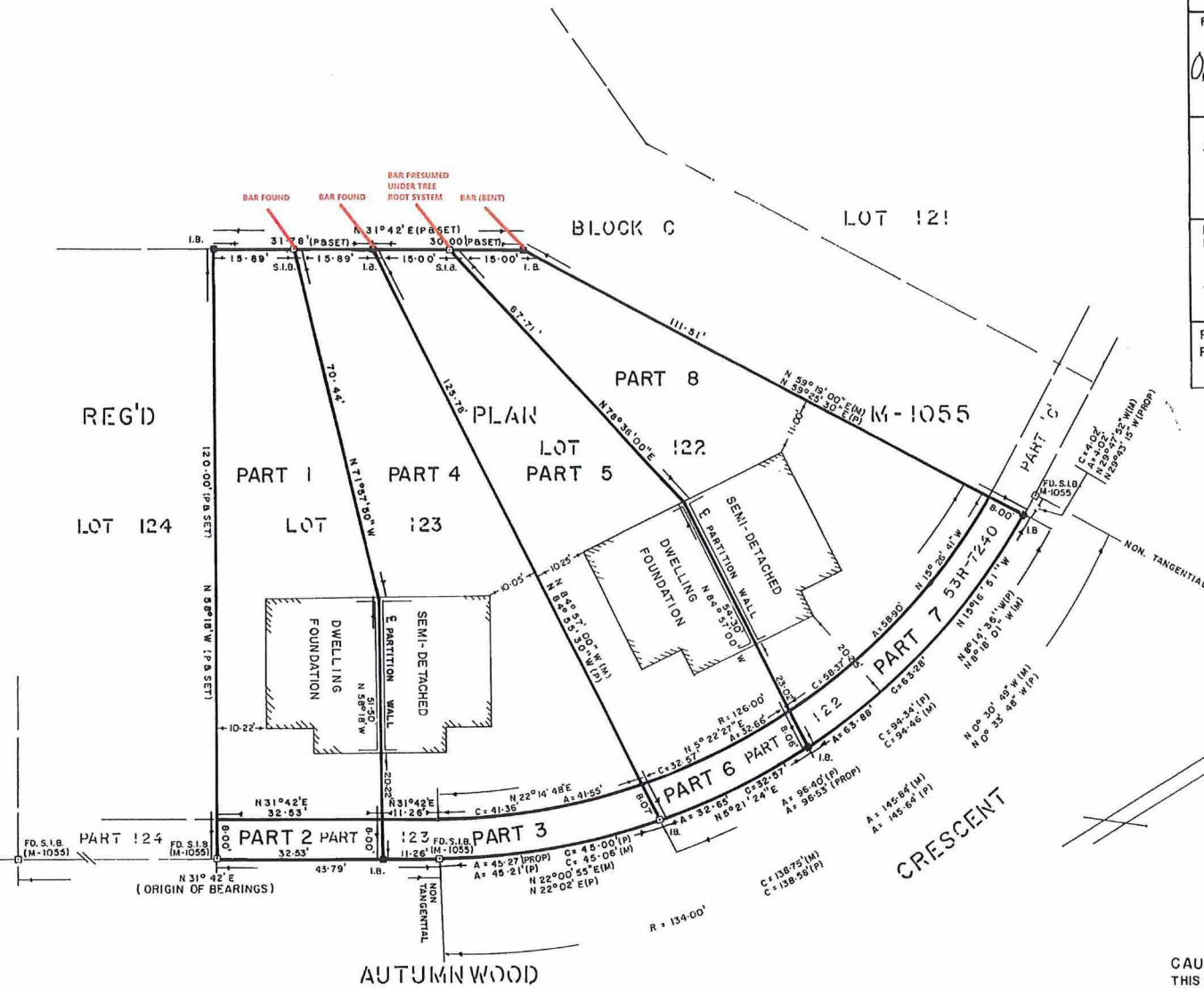
APPROVED... *October 4, 1979*  
ASSISTANT EXAMINER OF SURVEYS

I REQUIRE THIS PLAN TO BE DEPOSITED UNDER THE LAND TITLES ACT.

SEPTEMBER 25, 1979 *R. T. Lane*  
DATE R. T. LANE  
ONTARIO LAND SURVEYOR

PARTS 1 TO 8 INCL. PART OF PARCEL 38908 S.E.S.  
PARTS 2, 3, 6 & 7 SUBJECT TO EASEMENTS 421793 AND 421794

20-233



**NOTE.**  
BEARINGS HEREON ARE DERIVED FROM THE BEARING OF N 31° 42' E SHOWN FOR THE WESTERLY LIMIT OF AUTUMNWOOD CRESENT ON PLAN M-1055 REGISTERED IN THE LAND REGISTRY OFFICE AT SUDBURY

- LEGEND**
- (R.) DENOTES REGISTER
  - (P) DENOTES PLAN
  - (M) DENOTES MEASURED
  - S.I.B. DENOTES IRON BAR 1" SQUARE 48" LONG
  - S.S.I.B. DENOTES IRON BAR 1" SQUARE 24" LONG
  - R.B. DENOTES IRON BAR 1" SQUARE 8" LONG IN ROCK
  - I.B. DENOTES IRON BAR 5/8" SQUARE 2 1/2" LONG.
  - X C.C. DENOTES CUT CROSS
  - W.S. DENOTES WOOD STAKE

I HEREBY CERTIFY.

1. THAT THIS SURVEY AND PLAN ARE CORRECT AND IN ACCORDANCE WITH THE SURVEYS ACT AND THE LAND TITLES ACT AND THE REGULATIONS MADE THEREUNDER
2. THAT THE SURVEY WAS COMPLETED ON THE 24 DAY OF AUGUST 1979

DATE: SEPTEMBER 25, 1979  
LANE AND LANE LIMITED  
ONTARIO LAND SURVEYORS  
127 PINE ST. SUDBURY

*R. T. Lane*  
R. T. LANE  
ONTARIO LAND SURVEYOR

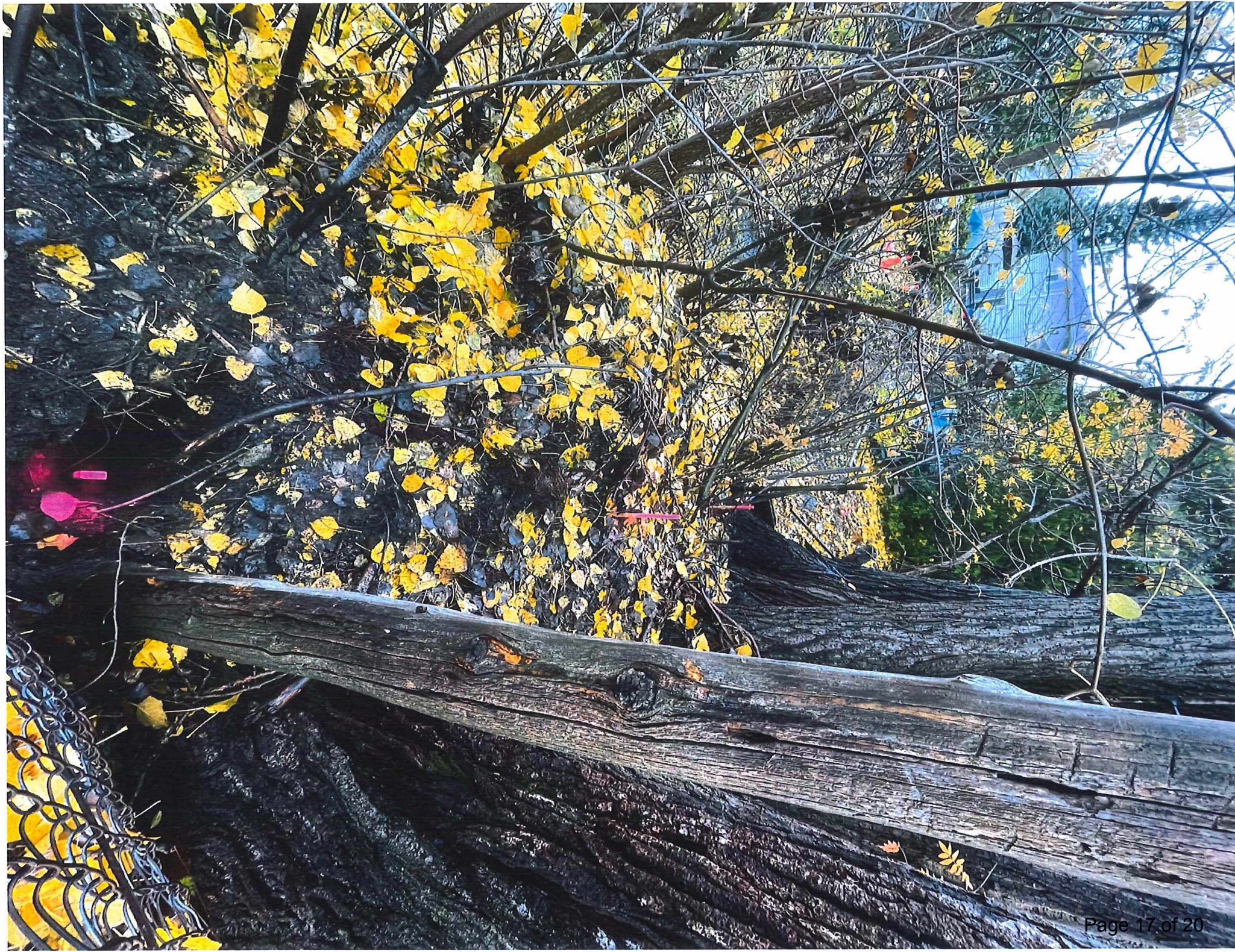
**CAUTION**  
THIS PLAN IS NOT A PLAN OF SUBDIVISION WITHIN THE MEANING OF THE PLANNING ACT.

PLAN AND FIELD NOTES OF SURVEY OF		
LOTS 122 & 123		
REGISTERED PLAN M-1055		
TOWNSHIP OF NEELON		
CITY OF SUDBURY		
REGIONAL MUNICIPALITY OF SUDBURY		
R. T. LANE O.L.S.	SCALE:	REF. No. (5) M-1055
1979	1" = 20'	III - 11 - NEELON

















July 31 2024

July 31 2024



July 31 2024



**FINAL NOTICE**

July 31, 2024

DUNHAM CARMEN G  
DUNHAM WAYNE W  
236 AUTUMNWOOD CRES  
SUDBURY ON  
P3B 3Z4

RE: Case 230906-000268  
**236 AUTUMNWOOD CRES**  
NEELON CON 3 LOT 10 PLAN M1055 LOT 122 RP 53R8626 PART 5 PART 6 PCL  
45362 IRREG 3431.00SF 32.66FR 11.51D


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A Notice of Non-Conformity in accordance with City of Greater Sudbury By-Law 2009-101 was issued to you on September 28, 2023, requiring that the property at the above noted address achieve compliance. This notice was to be complied with by October 29, 2023. The property has been re-inspected and the Notice has **not** been complied with.

The City of Greater Sudbury is now in a position where we have the authority to enter onto your property to complete the required work and recover the costs through your property tax bill. This letter serves to advise you that if this is not completed before **August 11, 2024**, the City will be entering onto your property to conduct the work with no further prior notice to you, and legal action may be commenced against you as the property owner.

I trust the contents contained herein are sufficient to conduct yourself accordingly. Should you have any questions please do not hesitate to contact the undersigned at 705-674-4455 extension 4322.

Regards,

**Gerald Sagle**   
By-Law Enforcement Officer  
City of Greater Sudbury  
705-674-4455 ext: 4322  
gerald.sagle@greatersudbury.ca

 RN 789 330 438 CA