

**SUMMER VILLAGE OF BIRCHCLIFF
SUBDIVISION AND DEVELOPMENT APPEAL BOARD
SEPTEMBER 12, 2025
RECORD OF HEARING AND DECISION**

PRESENT

Chair:	Roger Dufresne
Member-at-Large:	Karen McCaffery
Member-at-Large:	Jim Freake
Development Officer:	Kara Hubbard
Recording Secretary:	Teri Musseau
Appellant(s):	Devon Bellavance Katrina Bellavance
Gallery:	

CALL TO ORDER

Chair Dufresne called the hearing to order at 10:00 a.m. Introductions of the Board members, appellants, and staff were made.

PURPOSE OF HEARING

An appeal was received on August 13, 2025, appealing the denial of a development permit for construction of a front yard fence by the Municipal Planning Commission on July 31, 2025, for the property located at 113 Birchcliff Road, in the Summer Village of Birchcliff.

PRELIMINARY ISSUES

There were no preliminary issues or questions of jurisdiction presented by either the appellant or the development authority.

OBJECTIONS TO MEMBERS OF THE APPEAL BOARD

Members of the Subdivision and Development Appeal Board were asked if they felt they should disqualify themselves from hearing the appeal before them and no one felt they needed to disqualify themselves.

The members of the Subdivision and Development Appeal Board were asked if they had sought, been given or reviewed any evidence prior to the hearing.

Other than the agenda package that was sent to members a few days prior to the hearing, none of the members had sought, been given or reviewed any evidence prior to the hearing.

The Appellants were asked if they had any objection to any of the members of the Subdivision and Development Appeal Board present from hearing the case. They had no objection to any of the members hearing the case.

HEARING PROCEDURES

Chair Dufresne reviewed the procedures to be followed for the hearing. No questions or concerns were raised by anyone with the process as outlined.

DEVELOPMENT PRESENTATION

Kara Hubbard, Development Officer provided the Subdivision and Development Appeal Board with the background of the appeal.

Ms. Hubbard noted the proposed setback from the escarpment line was changed by the applicants at the MPC meeting to 3.8 ft. The land use bylaw does not require a setback for fences.

The land use bylaw, section 3.1.1 states no fences shall be located in the front yard. Under section 5.8 of the land use bylaw there is a provision which allows the Development Authority variations where strict compliance is impractical or undesirable because of unique site circumstances.

The proposed development is being treated as a fence as a guard is not specifically listed as a use or defined and would require a variance.

**APPELLANT
PRESENTATION**

Mrs. Bellavance began her presentation by clarifying the guard itself is 42 inches high not 48 inches.

Mrs. Bellavance started her presentation reviewing the core values of the Municipal Development Plan and explaining how her family has not been able to enjoy the quiet, peaceful enjoyment of their property due to the safety concern of the 30' cliff in their front yard. They have found themselves limited to use of only half their yard and must supervise their children at all times when outdoors.

After her original application for a safety guard was denied, it had been suggested by the Development Officer, as an option, to plant shrubs which could act as a barrier between their property and the bank, but this is not an option for the appellants as shrubs are not a sufficient safety barrier to protect their family.

The appellants reapplied to the MPC with an amended application in July, removing the side yard fence and only asking for the glass safety guard. This application was also denied.

The definition of fence in the land use bylaw does address anything the appellants are proposing. The definition of guard rail, which was not found in the land use bylaw, does fit their requested development. A guard rail will prevent people from falling down the escarpment and provide safety to anyone accessing their property.

The appellants did contact several people including safety codes, their lawyer, and municipal affairs all of whom did agree that a guard rail was needed.

The land use bylaw has a provision allowing the MPC to grant a variance where strict compliance is impractical or undesirable because of unique site circumstances. The appellants are asking the SDAB to grant a variance and approve a guard rail for the front yard of their property. Mrs. Bellavance believes it is only a matter of time before tragedy occurs if left as current.

**QUESTIONS
FROM BOARD**

Questions were asked from the Board members to the Appellants and the Development Officer for clarity.

**IN FAVOUR OF
THE APPEAL**

Written submissions were received from Jon Weddell, Jeremy Weddell, and Patrick Walsh in support of the appeal.

No one spoke in favour of the appeal.

AGAINST THE APPEAL There were no written submissions received in opposition to the appeal.

No one spoke in opposition to the appeal.

DEVELOPMENT OFFICER SUMMARY Mrs. Hubbard had nothing further to add as she believed all her information had already been provided.

SUMMARY FROM APPELLANT Mrs. Bellavance had nothing further to add as she believed all her information had already been provided.

OPPORTUNITY FOR A FAIR HEARING Chair Dufresne asked Mrs. Bellavance if she felt she had an opportunity to state her case. She acknowledged she had.

Chair Dufresne asked if the Board felt they had all the information needed to make its decision. The Board members acknowledged they had.

HEARING CLOSED Chair Dufresne thanked everyone for their attendance and respectful presentations. A written decision of the Board will be made within 15 days. The hearing was declared closed at 10:26 a.m. No further submissions will be entertained by the board.

DECISION The appeal is granted. The Board approves the issuance of a development permit for a fence (guard), with the conditions as follows:

- (a) The development commences and continues in the manner applied for, including landscaping, and that all development complies with the regulations and specifications of the Land Use Bylaw under which this permit was issued.
- (b) The construction, and any landscaping shall be completed within 12 months of the date of permit issuance.
- (c) Any damage to public roads or carriageways due to the construction shall be repaired immediately at the expense of the permit holder.
- (d) All road bans to be followed that are implemented by Roadata and the administration office.
- (e) All applicable Superior Safety Codes permits to be completed and submitted to the administration office.
- (f) \$5,000.00 completions deposit required to ensure development is completed in accordance with the approved development permit.
- (g) Proposed landscaping must include the planting of native grasses or other vegetation between the fence/guard and the top of the escarpment. The proposed vegetation is, in principle, a vegetative guard and is therefore considered to be part of the overall

fence/guard development. The vegetation must be maintained at a height no less than the height of the guard and vegetation must be maintained as long as the development exists. Reclamation seed and native grasses that will grow to a height of 3' to 3.5' high to be planted at the top of the bank.

- (h) All development and landscaping, including the planting of vegetation or native grasses between the fence/guard and the top of the escarpment must be established to the satisfaction of the Development Officer within two (2) years of the issuance of this permit at a height no less than the height of the fence/guard except that portion designated for a gate and covering the full length of the guard for as long as the development exists.
- (i) For parcels abutting Sylvan Lake or a reserve parcel abutting the lake, no fences shall be located within the front yard. Notwithstanding this provision, a variance has been granted by the Subdivision and Development Appeal Board (SDAB) to allow a 42-inch-tall glass fence/guard within the front yard located a minimum of 3.8 feet back from the escarpment, together with the required vegetation as set out in Conditions (g) and (h).

REASONS

The current state of the escarpment causes a safety concern for the residents, guests, and visitors to the property due to the 30 ft cliff.

The proposed development would not:

- i. Unduly interfere with the amenities of the neighbourhood, or
- ii. Materially interfere with or affect the use, enjoyment, or value of neighbouring lots.

The proposed development would only be visible from the property side and not from the lake.

While there is no definition for "guard" in the Land Use Bylaw, the SDAB finds that the proposed development is more like a guard than a fence and therefore finds it similar to a permitted or discretionary use in the district and finds the requested variance to be reasonable.

DATED AT THE TOWN OF SYLVAN LAKE THIS 11TH DAY OF SEPTEMBER 2025.

**THE SUMMER VILLAGE OF
BIRCHCLIFF SUBDIVISION AND
DEVELOPMENT APPEAL BOARD**

**Roger Dufresne
SDAB Chair**

