

# THE CORPORATION OF THE TOWN OF NIAGARA-ON-THE-LAKE

Committee of Adjustment, Community & Development Services Department  
1593 Four Mile Creek Road, Niagara-on-the-Lake  
P.O. Box 100, Virgil, Ontario, L0S 1T0  
905-468-3266 ext. 246, fax: 905-468-0301, www.notl.org, cmacona@notl.org



## NOTICE OF DECISION

## MINOR VARIANCE APPLICATION NO. A-32/11

**16 Wilberforce Avenue**  
Assessment Roll No. 2627020007221000000

### Location of the Land and Purpose and Effect of the Proposed Minor Variance:

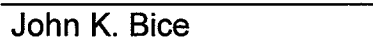
The subject land is known municipally as 16 Wilberforce Avenue, lying south of Niagara Boulevard, being Plan 73A Lot 184 Lot 185, Town of Niagara-on-the-Lake.

The applicant proposes to construct a dwelling on the subject lot. To accommodate the proposal a variance is requested for property zoned "Old Town Community Zoning District - Established Residential (ER2)" as follows:

1. Maximum building height (peak) from the average existing building height within the same block face, 6.12 metres, as permitted in the Zoning Bylaw, to 9.75 metres for the proposed dwelling.


**DECISION: *REFUSED***

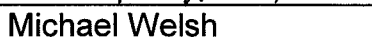
**FOR REASONS SEE ATTACHED SCHEDULE "A"**

  
John K. Bice  
Committee of Adjustment

  
Ray Guy  
Committee of Adjustment

  
Gracia Janes  
Committee of Adjustment

  
Hilda McCann  
Committee of Adjustment

  
Michael Welsh  
Committee of Adjustment

Date of Decision:	August 18, 2011
<b>Last date of filing an appeal to the Ontario Municipal Board under Section 45 of the Planning Act:</b>	<b>September 7, 2011</b>

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**NOTICE OF DECISION**

**MINOR VARIANCE APPLICATION NO. A-32/11**

**SCHEDULE "A"**

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This is Schedule "A" attached to and forming part of the decision regarding Minor Variance application **A-32/11, 16 Wilberforce Avenue**.

**REASONS:**

Urban design considerations should not outweigh the Zoning By-Law contextual zoning intent to preserve the character of established neighbourhoods by regulating the height and bulk of new buildings to ensure buildings are consistent with existing neighbourhood character. The Applicant's Agent advised they would be willing to reduce the height variance request by 1 metre but it is inappropriate for the Committee to address an amendment to the Application that still requires a variance and the Committee would prefer to deal with the Application as submitted or an adjournment to permit amendments to be made and the Application resubmitted.

Contextual zoning is the main issue; along this street there are differing types of houses and the intent of the Zoning By-Law height regulation is that new construction is not to overwhelm existing homes, i.e. the proposed house would be taller than most of the houses along the block face, including several 1 storey bungalows / cottages.

Therefore this Application does not meet all four Planning Act tests for a minor variance; the variance is not minor in nature from the provisions of the Zoning By-Law and is not appropriate for the development of the land and the general intent and purpose of the Zoning By-Law and the Official Plan is not maintained.

A handwritten signature in black ink, appearing to read "Cathy Macdonald", written over a horizontal line.

Cathy Macdonald

Secretary-Treasurer Committee of Adjustment