

THIS AGREEMENT MADE THIS 21st DAY OF NOVEMBER, A.D. 1983.

B E T W E E N :

THE CORPORATION OF THE TOWN OF PELHAM

Hereinafter referred to as the "Town";

-and-

MARK E. SIMMONDS

Hereinafter referred to as the "Owner".

WHEREAS the Town is the owner of the road allowance between Concession 9 and 10 of the Township of Pelham now in the Town of Pelham, known as Welland Street in accordance with Municipal Survey No. 780;

AND WHEREAS Mark E. Simmonds is the owner of the property known municipally as 772 Welland Street in the Town of Pelham and being Part of Lot 6 on the south side of Welland Street according to the Plan of the Village of Fenwick, being Registered Plan No. 16, now known as Plan 703, for the Township of Pelham, now in the Town of Pelham, more particularly shown in the plan of survey attached hereto;

AND WHEREAS the house located on the owner's property encroaches over the road allowance of the Town to the extent of approximately 1.88 feet and more particularly shown on the plan of survey attached hereto;

AND WHEREAS the encroachment consists of a portion of the veranda attached to the house;

AND WHEREAS the Town has agreed that the encroachment may continue only in accordance with the terms of this agreement.

NOW THIS AGREEMENT WITNESSETH that the encroachment may continue but shall be deemed to be with the licence of the Town to the intent that the Owner shall not acquire an easement therefor;

The Owner shall be allowed to maintain and repair the said encroachment as it exists as of the date of this agreement however he shall not be allowed to alter, enclose, renovate or change in any way the veranda as it encroaches on the Town's road allowance.

If that part of the veranda which encroaches upon the Town's road allowance is destroyed or substantially destroyed or demolished whether by fire or any other means, the encroachment shall cease to exist and the Owner hereby agrees to abide by the planning and zoning regulations and by-laws enforced at the time, to maintain the buildings within the boundaries of their property.

This agreement shall enure to the benefit of and be binding upon the heirs, executors, administrators and assigns of the parties respectfully.

IN WITNESS WHEREOF THE CORPORATION OF THE TOWN OF PELHAM has hereunto duly affixed its corporate seal attested to by its proper signing officers in that behalf and the Owner has hereunto affixed his hand and seal.

SIGNED, SEALED AND DELIVERED  
IN THE PRESENCE OF

THE CORPORATION OF THE TOWN OF PELHAM

Per: *E.S. Bergensten*

Per: *Mary Hallett*

*Betty Turnachoffe*

*Mark E. Simmonds*  
MARK E. SIMMONDS

BUILDING LOCATION SURVEY OF  
**LOT 6 ON THE SOUTH SIDE OF WELAND STREET**  
**REGISTERED PLAN 16**

TOWNSHIP OF PELHAM

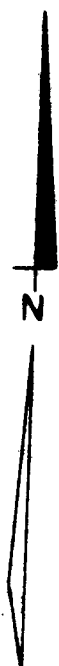
(REGD PLAN 16 NOW KNOWN AS PLAN 703)

NOW IN THE

TOWN OF PELHAM

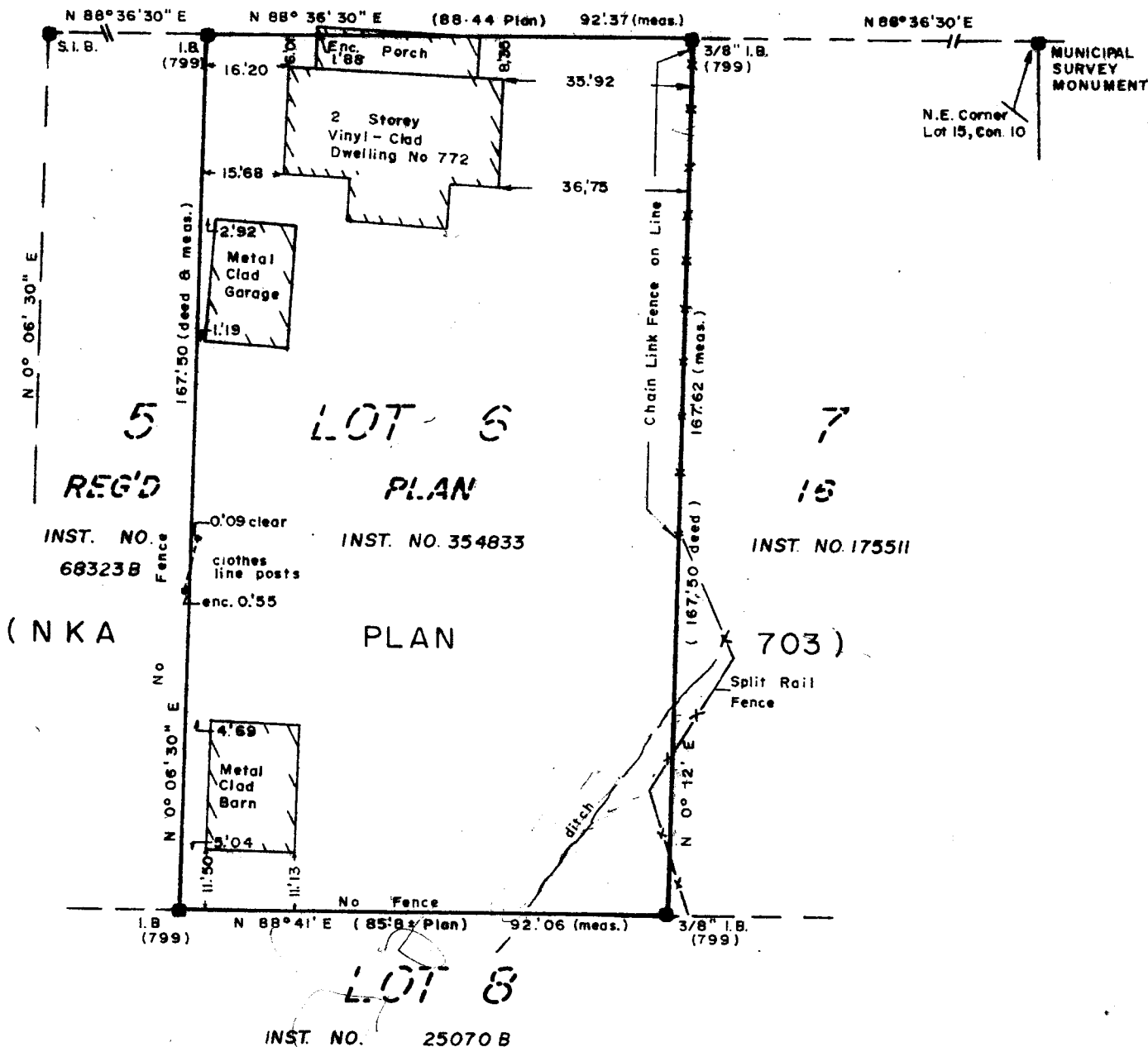
**REGIONAL MUNICIPALITY OF NIAGARA**

SCALE: 1" = 30'  
 DOUGLAS A. LANE O.L.S.  
 1983



**WELAND STREET** (Rd. All. Bt'n. Con. 9 & 10)

**CHURCH STREET**



**BEARING NOTE**

Bearings hereon are astronomic and are related to the Easterly Limit of Church Street on a course of N 0°06'30" E in accordance with Plan 59R-1377.

**Surveyor's Certificate**

I CERTIFY THAT:

- 1) This survey and plan are correct and in accordance with The Surveys Act and The Registry Act and the regulations made thereunder.
- 2) The survey was completed on the 15 day of NOV., 1983.

*Douglas A. Lane* O.L.S.  
**Douglas A. Lane**

ONTARIO LAND SURVEYOR  
 FONTHILL ONTARIO

DATE November 15, 1983 FILE 81-79

- I.B. Denotes IRON BAR 3/4" dia. x 2'0
- S.I.B. Denotes IRON BAR 1" sq. x 4'0
- LB. Denotes IRON BAR 5/8" sq. x 2'0
- Denotes FOUND SURVEY MONUMENT

**AFFIDAVIT OF SUBSCRIBING WITNESS**

Revised  
March/73

I, BETTY ~~XXXXXXXXXX~~ TUNNAcliffe  
of the Town of Pelham  
in the Regional Municipality of Niagara

make oath and say:

I am a subscribing witness to the attached instrument and I was present and saw it executed  
at the Town of Pelham by MARK E. SIMMONDS

I verily believe that each person whose signature I witnessed is the party of the same name referred  
to in the instrument.

SWORN before me at the Town of  
Pelham in the Regional  
Municipality of Niagara

this 19<sup>th</sup> day of November, 1983

Betty Tunnacliffe

LLOYD J. TUNNAcliffe  
A Commissioner, etc., Judicial  
District of Niagara South for the  
Corporation of the Town of Pelham  
Expires June 6th, 1984.

\* Where a party is unable to read the instrument or where a party signs by making his mark or in foreign characters add "after instrument had been read to him and he appeared fully to understand it". Where executed under a power of attorney insert "(name of attorney) as attorney for (name of party)"; and for each clause substitute "I verily believe that the person whose signature I witnessed was authorized to execute the instrument as attorney for (name)".

**AFFIDAVIT AS TO AGE AND SPOUSAL STATUS**

I / ~~XXX~~ MARK E. SIMMONDS  
of the Town of Pelham,  
in the Regional Municipality of Niagara,

(severally) make oath and say: When X / ~~XXX~~ executed the attached instrument,

~~XXXX~~ / I WAS at least eighteen years old;

and within the meaning of section 1(f) of The Family Law Reform Act, 1978,

~~XXX~~ ~~XXXXXXXXXXXXXXXXXXXXXXXXXXXX~~

(a) I WAS NOT A SPOUSE.

~~XXX~~

~~XXXXXXXXXX~~  
~~was my spouse~~

~~XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX~~  
~~(a) We were spouses of one another.~~

Strike out  
inapplicable  
clauses.

\*\* Not a  
substantial  
home, etc.,  
see footnote.

I am a resident of Canada within the meaning of the  
Income Tax Act of Canada.

Resident of  
Canada, etc.

(SEVERALLY) SWORN before me at the Town  
of Pelham, in the Regional  
Municipality of Niagara

this 19<sup>th</sup> day of November, 1983.

LLOYD J. TUNNAcliffe  
A Commissioner, etc., Judicial  
District of Niagara South for the  
Corporation of the Town of Pelham  
Expires June 6th, 1984.

Mark E. Simmonds

\* Note: Where affidavit made by an attorney substitute "When I executed the attached instrument as attorney for (name), he/she was (spousal status), and if applicable, name of other spouse) within the meaning of section 1(f) of The Family Law Reform Act, 1978 and when he/she executed the power of attorney, he/she had attained the age of majority".

\*\* Note: See Section 48(3) of The Family Law Reform Act, 1978 where spouse does not join in or consent; or complete a separate affidavit.

