



STAFF REPORT ACTION REQUIRED

Application for Encroachment Agreement 861 Windermere Avenue

Date:	April 28, 2009
To:	Etobicoke York Community Council
From:	Curtis Sealock, Manager, Municipal Licensing and Standards
Wards:	Ward 13 – Parkdale High Park
Reference Number:	ML&S Folder Number 08-117481

SUMMARY

To report on an application for Encroachment Agreement submitted by the owner to maintain an existing close board wood fence and a wrought iron fence, both constructed over a concrete retaining wall, and part of an existing garage, which are encroaching on the St. John’s Road and Windermere Avenue street allowance by a total area of approximately 146 square metres. This staff report is about a matter for which the Community Council has delegated authority from City Council to make a final decision.

RECOMMENDATIONS

Municipal Licensing and Standards recommend that the Etobicoke York Community Council approve the application, subject to the following conditions:

1. The owner to enter into an Encroachment Agreement with the City of Toronto.
2. The City Solicitor to be authorized to prepare an Encroachment Agreement for the proposed encroachments
3. The owner to pay the City of Toronto all fees associated with the preparation of this agreement, and, should there be a requirement for the City of Toronto to charge an annual fee for the use of the road allowance in future, be responsible for such payment.

4. The signed agreement to be returned to the City along with the required Certificate of Insurance, evidencing a third party bodily injury and property damage insurance in the amount of \$2,000,000.00 or such other coverage and greater amount as the City may require, and naming the City of Toronto as an additional insured party under the policy.
5. The said Certificate of Insurance to be renewed on an annual basis for the life of the encroachments.
6. The existing wood fence constructed over a retaining wall on the St. John's Road street allowance to be removed, or alternatively cut down to a combined height of no more than 1.0 metres measured from the travelled portion of the adjoining road to the top of the fence.
7. The owner to provide access to the Bell plant, as may become necessary, within the proximity of the fence and retaining wall and be responsible for all consequent costs and expenses.
8. The close board wood fence shall be altered and the garage constructed to the satisfaction of Transportation Services and Toronto Building Division respectively.
9. The area enclosed by the fence to be kept free of debris and litter, and the grass constantly cut and maintained, in line with the requirements of Chapter 489 of Toronto Municipal Code, Grass and Weeds.
10. The owner shall comply at all times with regulations set out in the former City of York Streets By-law 3343-79, as amended.

FINANCIAL IMPACT

There are no financial implications resulting from adoption of this report.

ISSUE BACKGROUND

The property is located at the south east corner of Windermere Avenue and St. John's Road. In responding to the decision made by the Committee of Adjustment dated May 31, 2007, requiring the removal of the garage encroachments onto St. Johns Road street allowance (ranging from 0.26 metres on the east end of the garage to 0.16 metres on the west), the owner's Architect submitted an application for an Encroachment Agreement to maintain such encroachments, as well as an existing 1.80 metres high close board wood fence and a 0.4 metres high wrought iron fence, both constructed on top of a 0.4 metres high concrete retaining wall, that are encroaching on the St. John's Avenue street allowance, and portion of this wrought iron fence and concrete retaining wall on the Windermere Avenue street allowance (Attachments 1, 2, 3, 4 and 5).

The total area of encroachments amounts to approximately 146 square metres.

COMMENTS

This application has been circulated for comment to Transportation Services, Urban Forestry Services, Toronto Fire Services and various utility companies, with no negative responses being received, other than the following:

1. Due to the concerns of traffic sight line obstruction, Transportation Services requires the existing 1.80 metres high wood fence constructed on top of the 0.4 metres concrete retaining wall, with a combined height of 2.20 metres from the travelled portion of the adjoining St. John's Road, to be removed or cut down to a height of no more than 1.0 metre (combined height) (Attachment 5); and
2. Bell Canada requires access to be provided to the Bell plant, as may become necessary, within the proximity of the fence and retaining wall, at the cost of the owner.

CONTACT

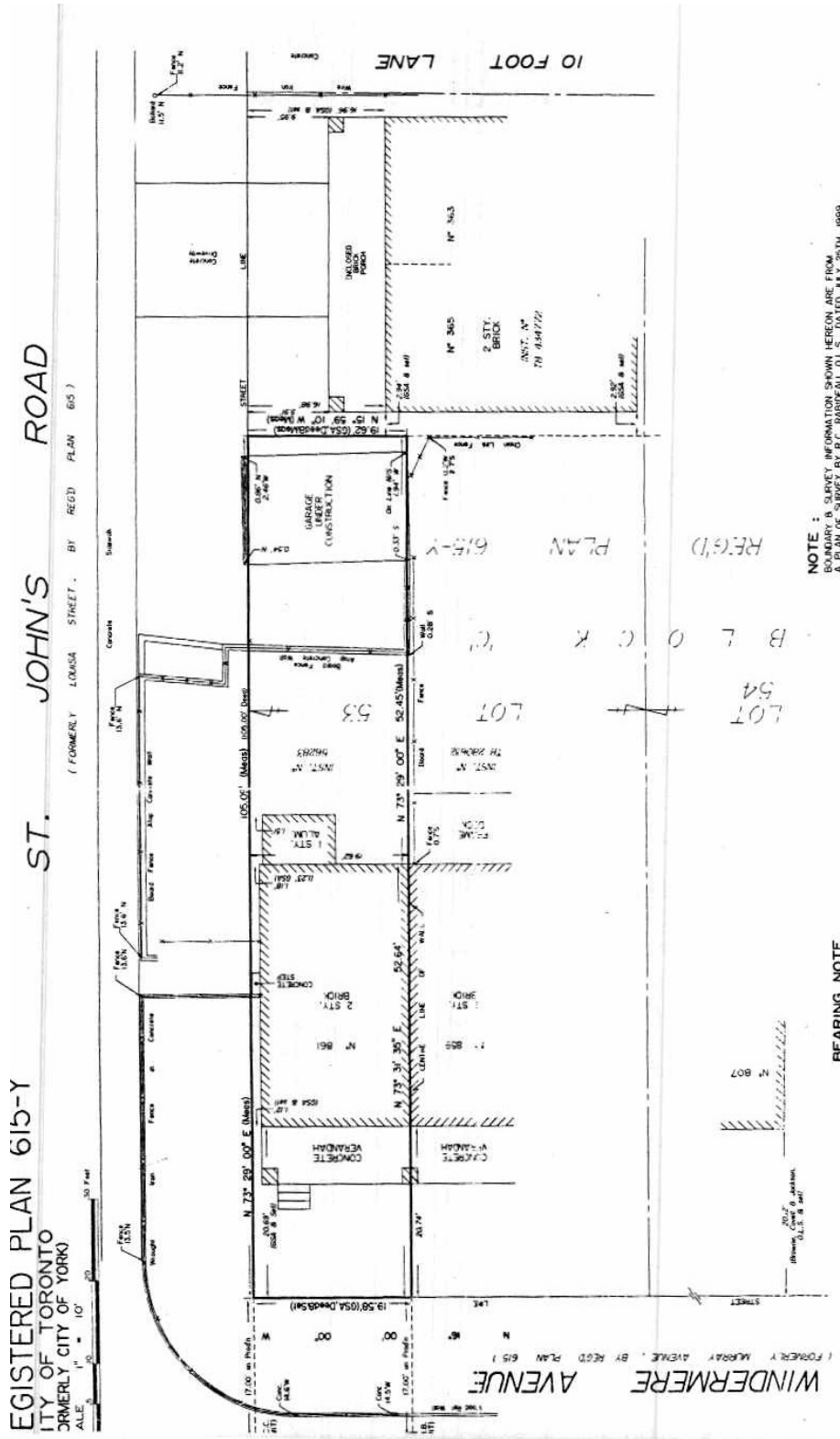
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SIGNATURE

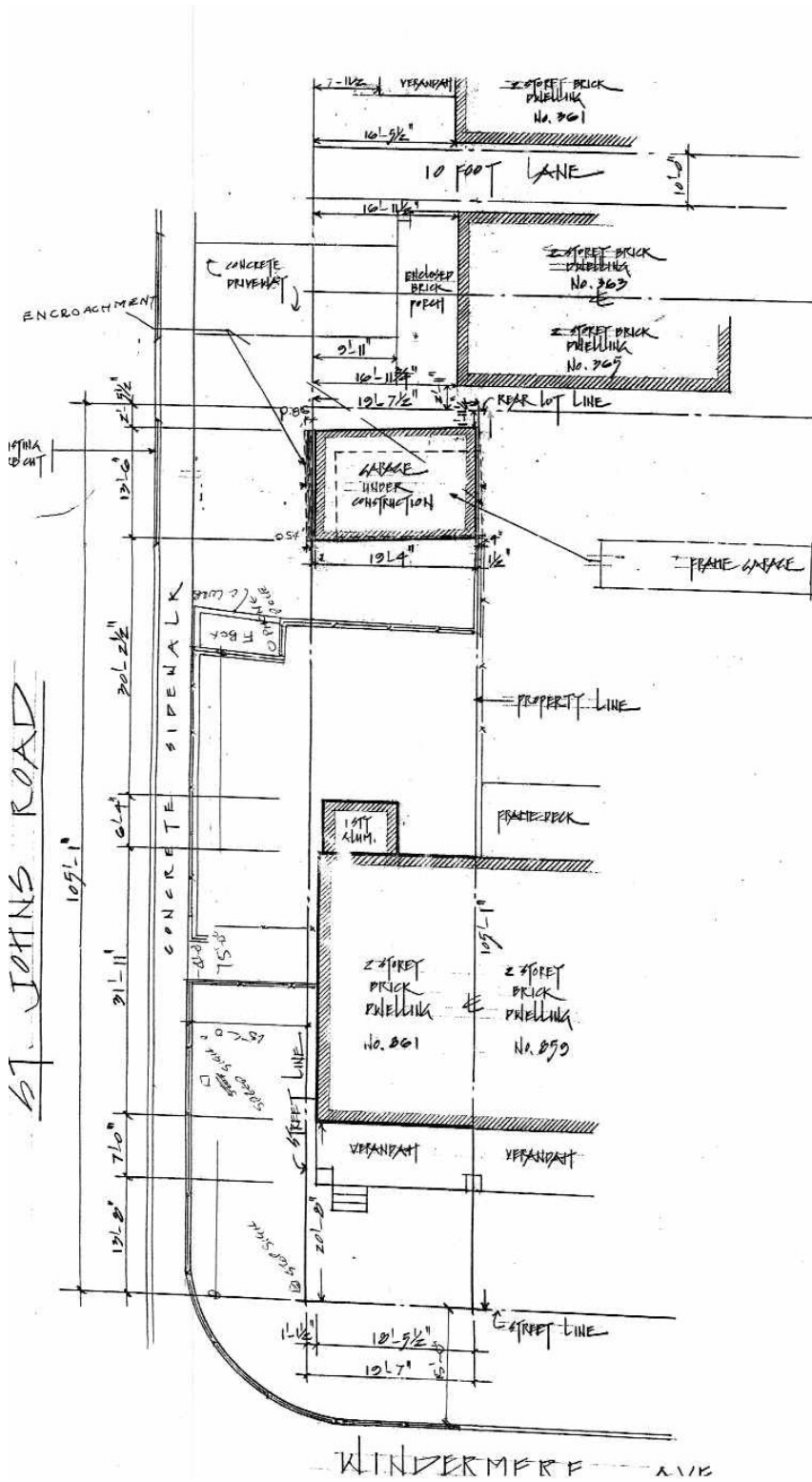
Curtis Sealock, District Manager
Etobicoke York District
Municipal Licensing and Standards

ATTACHMENTS

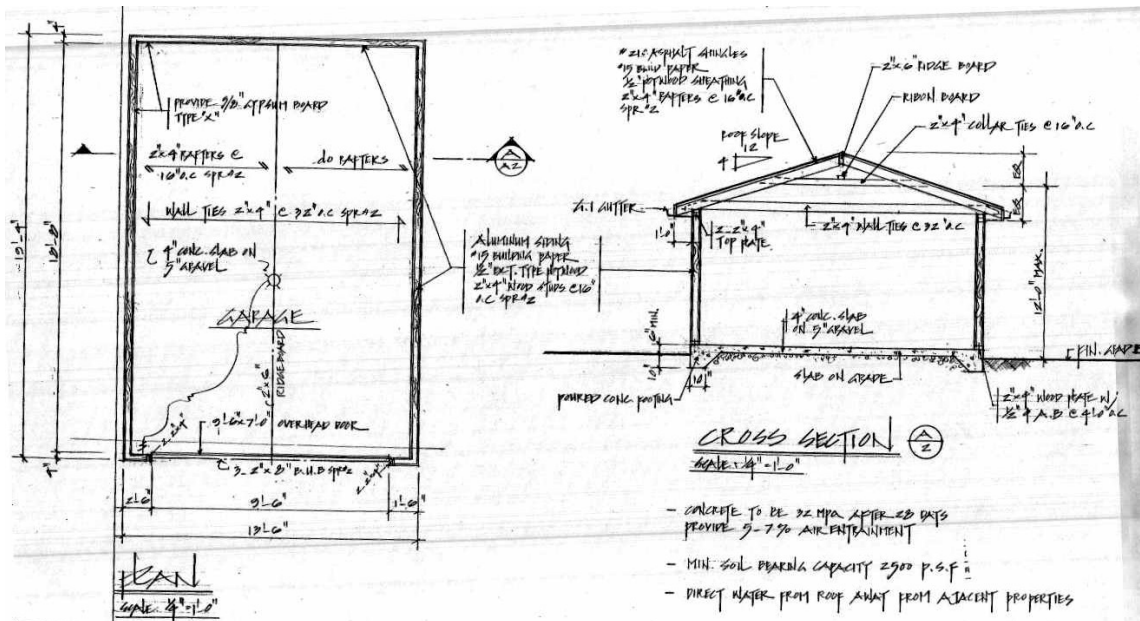
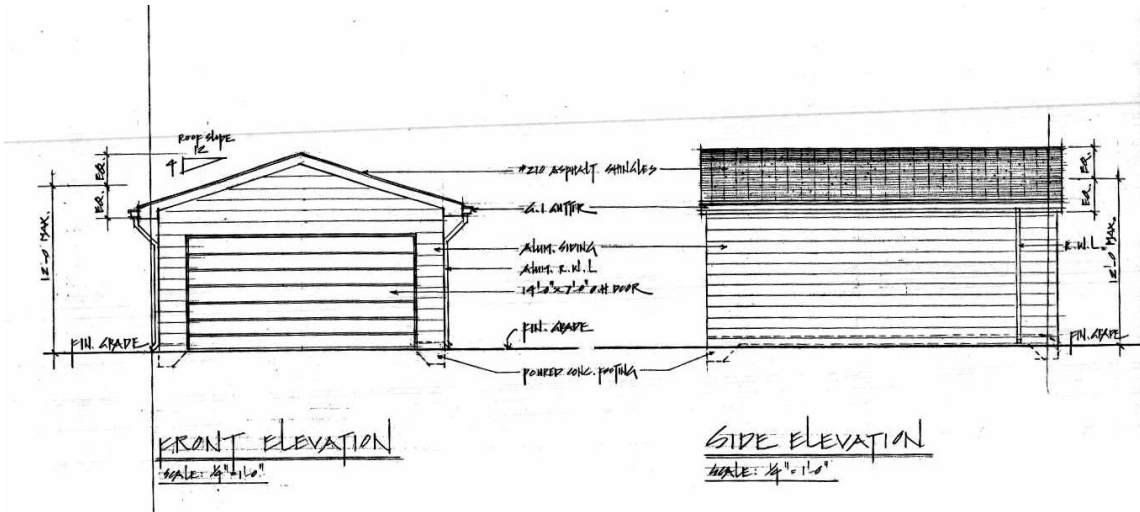
Attachment 1: Property Survey
Attachment 2: Site Plan
Attachment 3: Elevations and Sections of Garage
Attachment 4: Details of Fences
Attachment 5: Photographs showing the Encroaching Fences
Attachment 6: Photographs showing the Wood Fence with Traffic Sight line concerns



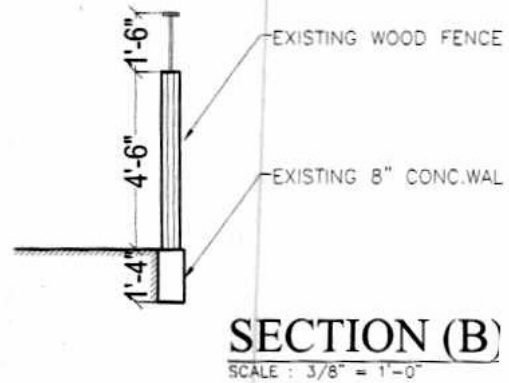
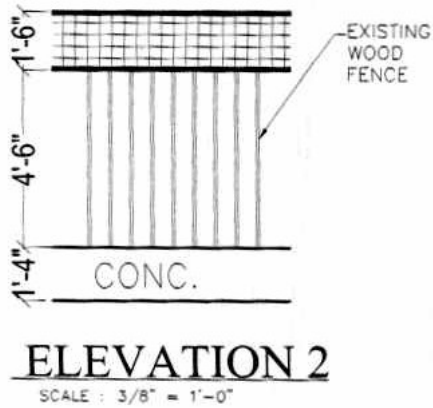
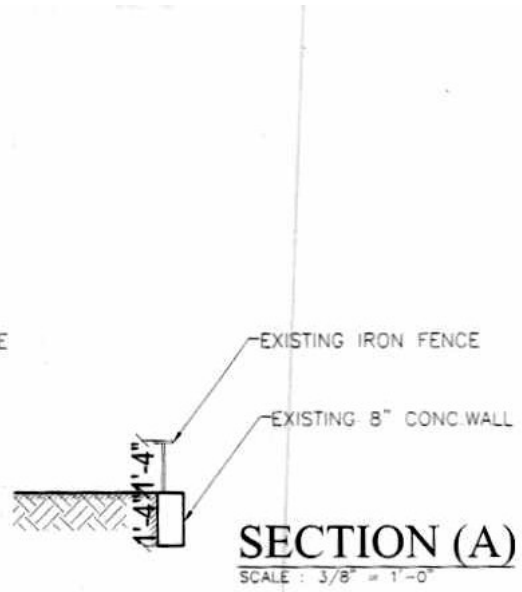
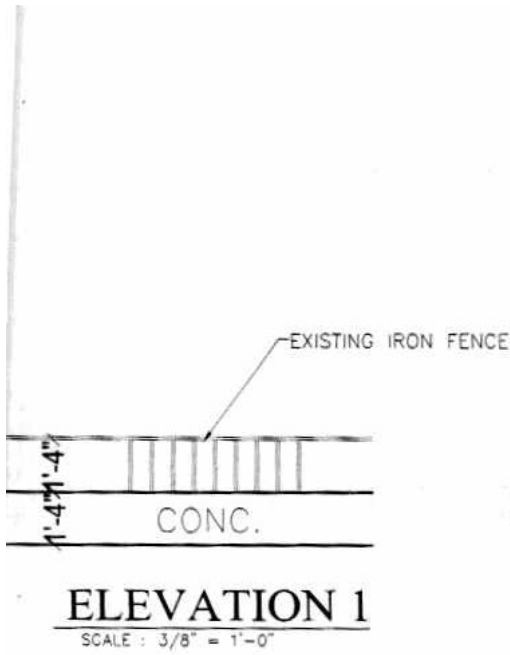
Attachment 1: Property Survey



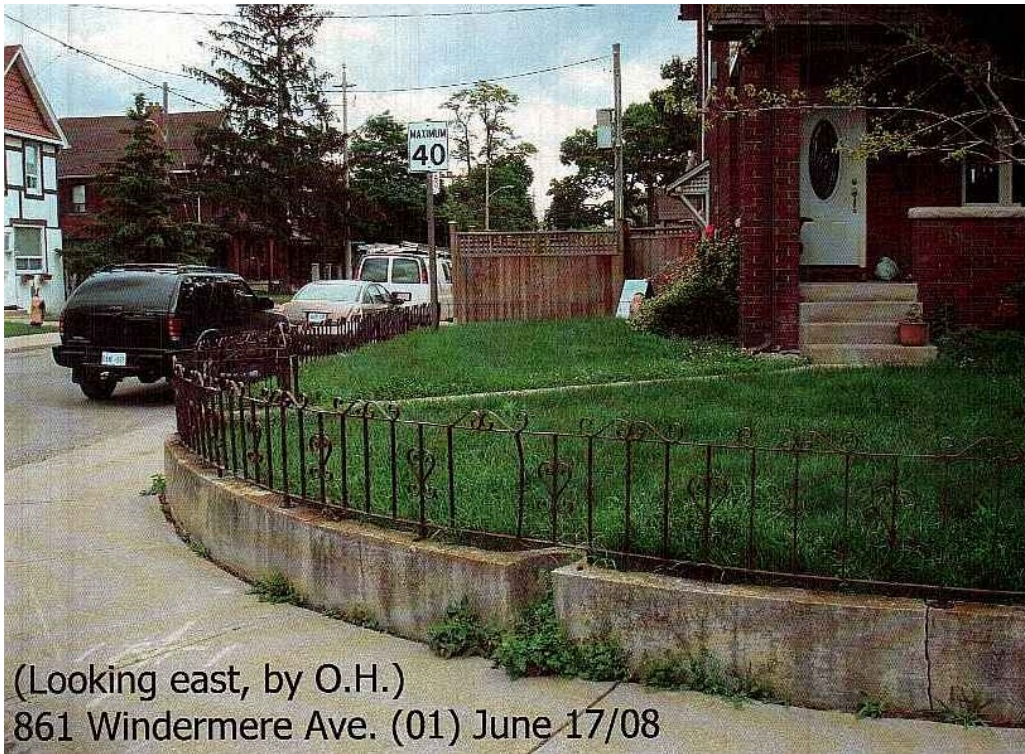
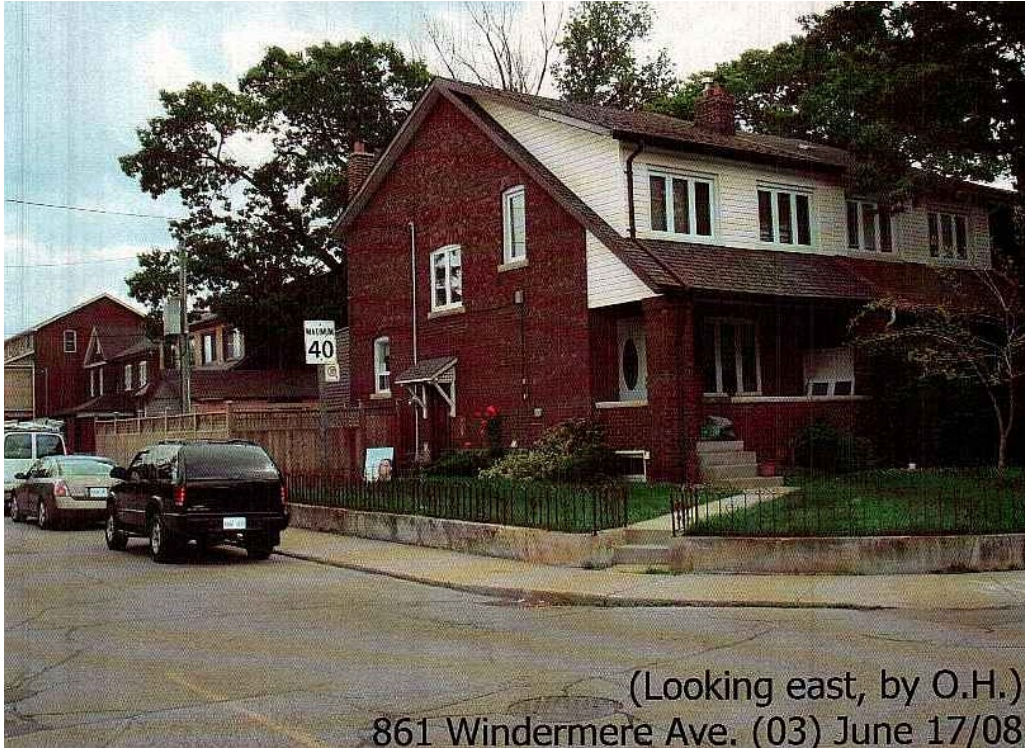
Attachement 2: Site Plan



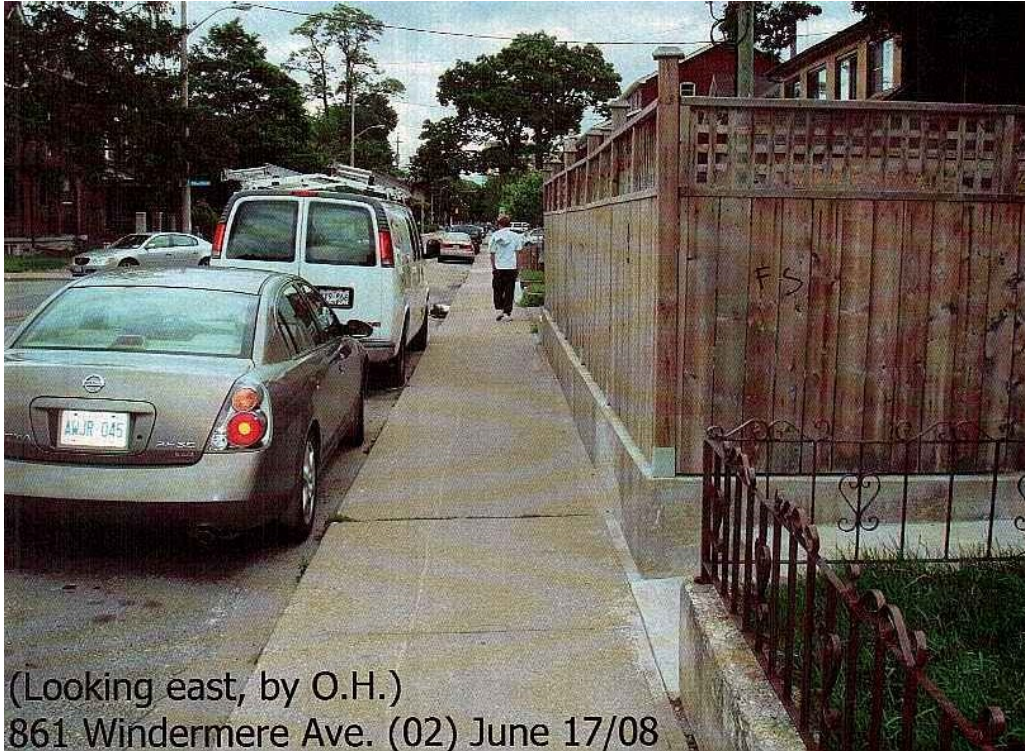
Attachment 3: Elevations and Sections of Garage



Attachment 4: Details of Fences



Attachment 5: Photographs showing the Encroaching Fences



Attachment 6: Photographs showing Wood Fence with Traffic Sightline concerns