



**STAFF REPORT  
ACTION REQUIRED**

**Application for Fence Exemption  
41 Blair Athol Crescent**

<b>Date:</b>	September 14, 2009
<b>To:</b>	Etobicoke York Community Council
<b>From:</b>	Curtis Sealock, District Manager, Municipal Licensing and Standards
<b>Wards:</b>	Ward 4, Etobicoke Centre
<b>Reference Number:</b>	ML&S Folder Number 09-161951 FEN 00 IR

**SUMMARY**

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This report is in response to an application made by the owner of the property for a fence exemption to install 1.2 metres high tempered glass fence enclosures including a fence and a gate of similar construction around the respective staircase landings leading from the house to swimming pool at the rear yard, and maintain two existing close board wood fences on the north side of the property that exceeded the maximum height prescribed by Toronto Municipal Code, Chapter 447, Fence. This is a matter in which the Etobicoke York Community Council has delegated authority from City Council to make a final decision.

**RECOMMENDATIONS**

**Municipal Licensing and Standards recommend that Etobicoke York Community Council refuse the application, as the proposed fence does not comply with the provisions of Toronto Municipal Code, Chapter 447, Fences.**

**Financial Impact**

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

**ISSUE BACKGROUND**

Municipal Licensing and Standards has received a request from the owner of the property for a fence exemption to install two sections of the pool enclosure in tempered glass construction at the respective staircase landings leading from the house to the swimming pool at the rear yard (Attachments 1, 2 and 3).

Other than these two sections of glass enclosure and the gated entrance to the pool area (that will be constructed in 2.0 metres high metal picket fence), the pool enclosure is made up of a 1.2 metres high chain link fence on the south side, a 1.8 metres high close board wood fence on the west side adjacent to Kipling Avenue, and another close board wood fence of varying height on the north side.

The proposed 1.2 metres high guard installed around the staircase landings leading from the house into the backyard is constructed with 19 millimetres tempered glass in aluminium framing.

The existing 50 millimetres gauged chain link fence on the south side will be replaced by the regulation 38 millimetres gauged fence of similar construction and a minimum height of 1.2 metres from grade will be maintained.

On the north side of the property, it was noted that 5 panels of the existing close board wood fence at the front yard, having a height ranging from 1.4 metres to 2.1 metres over a distance of 6.0 metres, are higher than the permitted 1.2 metres height limit for front yard fences under the Fence By-law. Also on this side at the rear yard, the 3 panels of the existing close board wood fence, having a total length of 7.2 metres, are 2.6 metres to 2.9 metres high above grade of the subject property. Due to the difference in grade between this property and the neighbouring property at 43 Blair Athol Crescent, the height of this section of the fence is reduced to 2.35 metres to 2.50 metres after adjustment (Attachments 2 and 4).

There are windows which form part of the pool enclosure that open into the side yards and the rear yard.

## **COMMENTS**

The installation of glass fencing is not permitted in the Municipal Code, Chapter 447, Section 447-2A.(5), which states, “No person shall erect, own or maintain, or cause or permit the erection of maintenance of any fence that uses materials not usually intended for the use in permanent fencing, unless specifically permitted by this or another by-law.” The fences permitted under the current edition of the Fence By-law include a chain link fence, a wood fence and a metal picket fence.

In addition, section 447-3C(3) prohibits no entrance to the enclosed pool area through the wall which forms part of the pool enclosure, and windows opening into this area that are less than 1.5 metres above grade shall be protected by window sash controlled devices or an approved guard with openings no exceeding 100 millimetres.

Should the application be approved, it must comply with the following conditions:

1. The tempered glass fence shall be installed in accordance with the Manufacturer’s specification;

2. The rest of the pool enclosure shall be constructed in accordance with the Toronto Municipal Code, Chapter 447, Fences, and Ontario Building Code;
3. Windows sash control devices shall be installed at all windows, with a sill less than 1.5 metres from interior floor level, that form part of the pool enclosure to restrict it from opening more than 100 millimetres, or such windows to be equipped with guards that do not have any openings exceeding 100 millimetres; and
4. Amended drawings shall be submitted and Fence Enclosure Permit to be obtained from Toronto Building Division.

While the existing fences on the north side at the front and rear yard are higher than the maximum height of 1.2 metres and 2.0 metres respectively, as permitted under Toronto Municipal Code, Chapter 447, Fences, they are not creating any traffic sight line obstruction. Also, no complaint has been received from the adjacent neighbour at 43 Blair Athol Crescent.

## **CONTACT**

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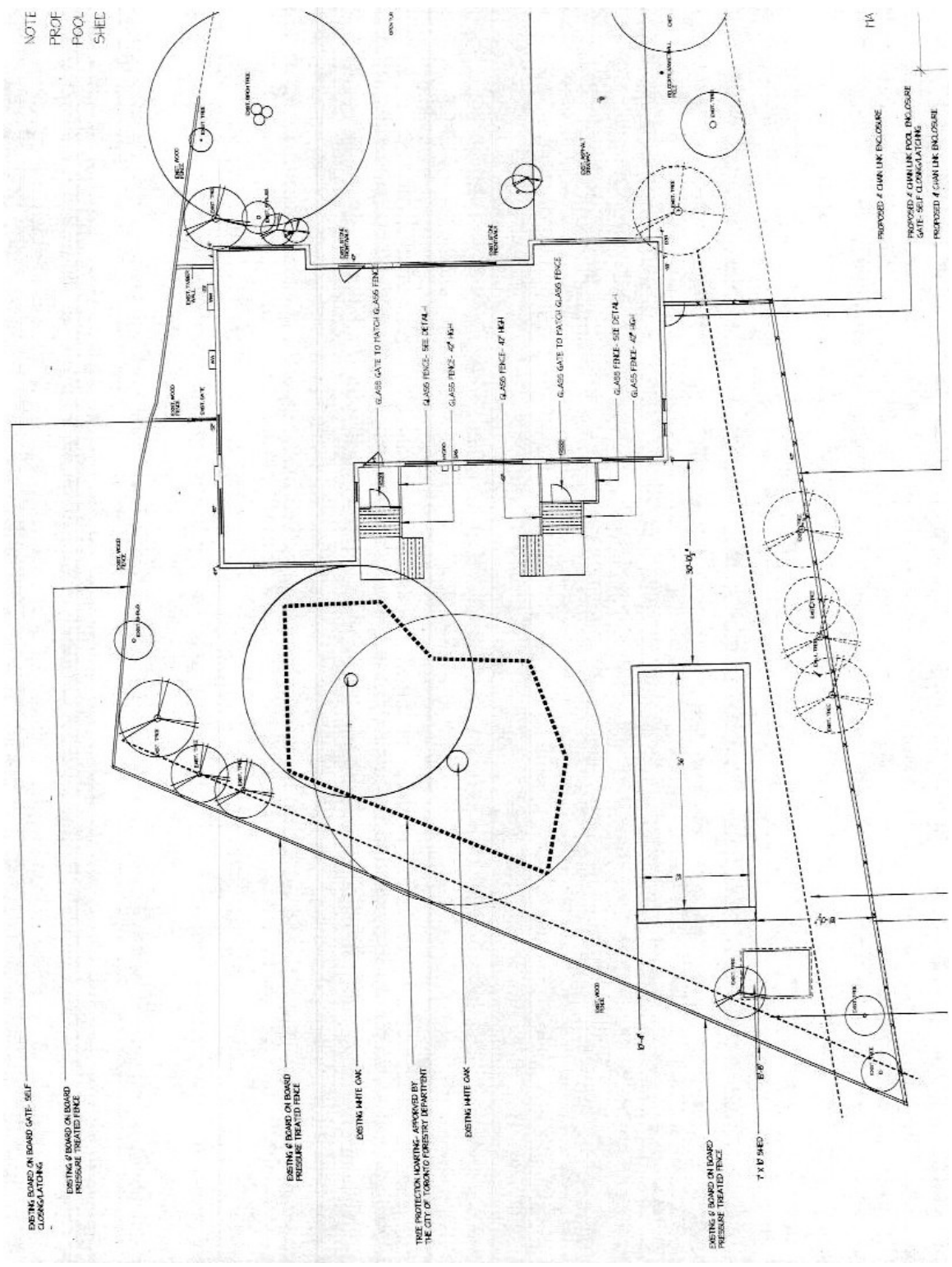
## **SIGNATURE**

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

## **ATTACHMENTS**

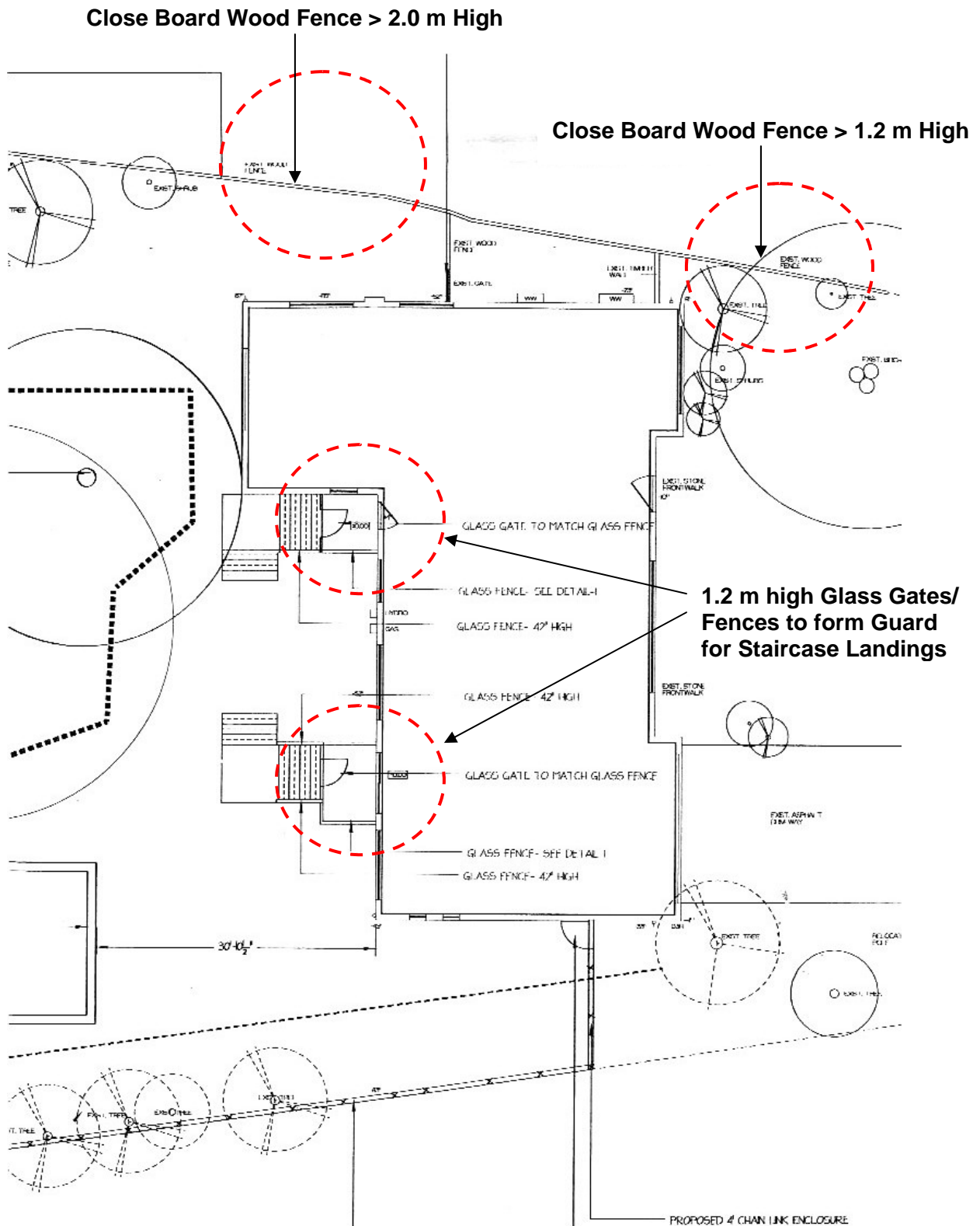
Attachment 1:	Site Plan
Attachment 2:	Fences Subject to By-law Exemption Application
Attachment 3:	Glass Fencing Detail and Locations
Attachment 4:	Photos Showing Fences Exceeded the Height Limits

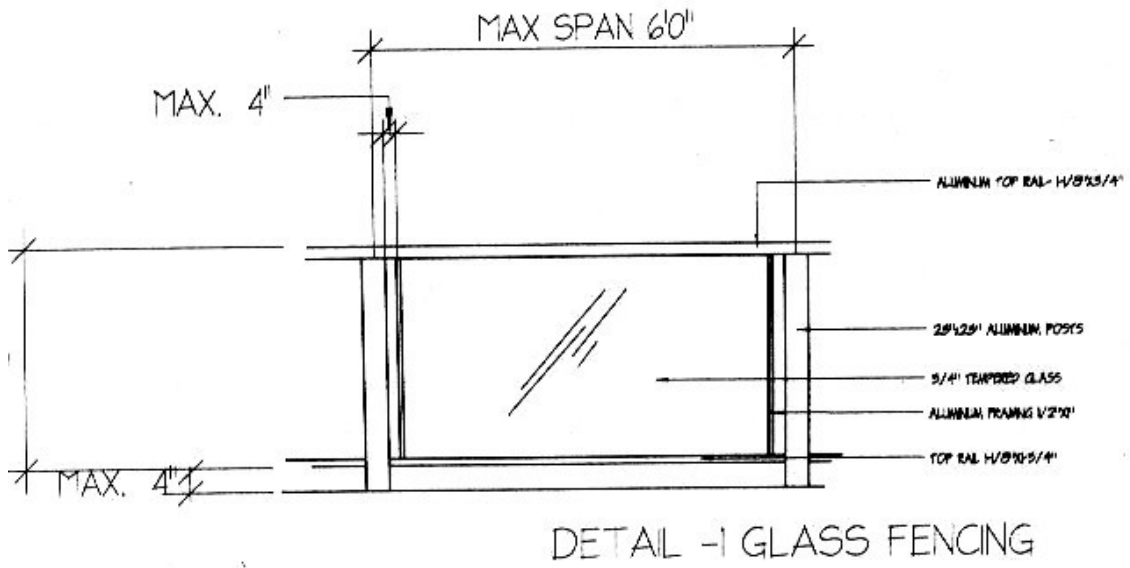


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**ATTACHMENT 1: SITE PLAN**





**ATTACHMENT 3: GLASS FENCING DETAIL & LOCATIONS**





**ATTACHMENT 4: FENCES AT FRONT & REAR YARD THAT EXCEEDED THE RESPECTIVE HEIGHT LIMITS OF 1.2 M & 2.0 M**