



**STAFF REPORT
ACTION REQUIRED**

Request for a Fence Exemption – 100 Sherwood Avenue

Date:	October 17, 2016
To:	North York Community Council
From:	Pat Burke, District Manager Municipal Licensing & Standards, North District
Wards:	Ward 25 – Don Valley West
Reference Number:	IBMS No. 16-225084

SUMMARY

This staff report concerns a matter for which the North York Community Council has delegated authority from City Council to make a final decision.

The purpose of this report is to advise Community Council concerning an application by the property owner for a site-specific Fence Exemption, pursuant to Section 447-5.C of Toronto Municipal Code, Chapter 447- Fences. The property owner is seeking Community Council's permission to maintain the constructed wooden fences as part of the swimming pool enclosure in lieu of complying with the requirements for swimming pool enclosures stipulated in the City of Toronto Municipal Code Chapter 447.

RECOMMENDATIONS

Municipal Licensing & Standards recommends that the North York Community Council:

1. Refuse to grant the application for an exemption permit, by the property owner of 100 Sherwood Avenue for the constructed wooden fences in lieu of complying with the requirements for swimming pool enclosures stipulated in City of Toronto Municipal Code Chapter 447.

OR

2. Grant the application for a fence enclosure exemption, without conditions, thereby allowing the swimming pool enclosure to be maintained, as constructed and

permit the wooden fences, as installed. Direct and require that the installation be maintained in good repair without alteration. Direct and require that at such time as replacement of the fence enclosure is required that such installation will comply with Municipal Code Chapter 447, or its successor by-law.

OR

3. Grant the application for a fence exemption permit, subject to any conditions as imposed by the North York Community Council. One condition to be considered is:

That the property owner/applicant files amended drawings detailing the final as built swimming pool enclosure fencing/conditions and have the amended drawings approved as part of the permit under File # 15-229265.

Financial Impact

There is no financial impact anticipated in this report.

DECISION HISTORY

No previous decision history.

ISSUE BACKGROUND

The subject property is a single family semi-detached dwelling situated one block east of Mount Pleasant Road and five blocks north of Eglinton Avenue East, in Ward 25 (*Attachment # 1*).

On October 2, 2015, a permit was issued under File # 15-229265 to permit the installation of a swimming pool enclosure in compliance with Chapter 447(*Attachment # 2*). This permit approved "Pool surrounded by a non climbable wood fence 4' minimum height".

On August 29, 2016, the property owner applied for a fence exemption, outlining a proposal in which the constructed wood fences would form part of the swimming pool enclosure. These wood fences at the east elevation have horizontal boards on the pool side of the subject property, and on the abutting neighboring property at 102 Sherwood Avenue, which is not permitted. As required by Section 447-5(C), Municipal Licensing & Standards has responded to the fence enclosure exemption application by preparing this report for North York Community Council's consideration, and, the City Clerk has sent all requisite notifications of the date that the North York Community Council will consider the application.

Municipal Licensing Standards' review of the swimming pool fence enclosure installation has determined that it does not comply with Toronto Municipal Code, Chapter 447-Fences, as detailed in the following chart:

GENERAL LOCATION	SPECIFIC LOCATION	DEFICIENCY	BY-LAW SECTION & REQUIREMENT*
East Elevation	Rear Yard on the Property including the fence abutting the neighbouring property at 102 Sherwood Avenue	Swimming pool enclosure is constructed with horizontal elements. Namely, the wooden boards are to be installed in a vertical manner. The constructed wooden fence at the East elevation of the rear yard, on the pool side as well as the neighbor-side at the east elevation comprise boards erected in a horizontal manner which would require an exemption.	Section 447-3E.(2)(b) A wood fence used in a swimming pool enclosure shall be constructed in a good, workmanlike manner as follows: [1] Vertical boards shall be not less than 19 millimetre by 89 millimetre lumber and shall be spaced not more than 38 millimetres apart where horizontal rails are spaced less than 1.2 metres apart and not more than 100 millimetres apart where horizontal rails are spaced at least 1.2 metres apart; and [2] Vertical boards shall be attached to horizontal rails that are not less than 38 millimetre by 89 millimetre lumber and that are supported on substantial posts with a minimum dimension of 89 millimetres spaced not more than 2.4 metres apart and embedded to a minimum depth of 900 millimetres below grade.

COMMENTS

The property owner is proposing that in lieu of complying with the deficiencies noted in the chart above that are contrary to the by-law and the issued permit under file # 15-229265, that the existing horizontal board fence profile [on the pool side] at the East elevation [and on the neighbor-side] be permitted to remain as is, instead. As the by-law does not permit horizontal board fence profiles, these conditions require an exemption from the regulations to be maintained, as built. (*Attachments # 3, and 4*)

Horizontal elements forming part of any swimming pool enclosure create the potential for toe-holds and other conditions thereby making the swimming pool fence/enclosure easier to facilitate climbing. These conditions could compromise the minimum level of safety that the prescribed by-law regulations intend to establish/maintain. The intent of the swimming pool enclosure provisions in the by-law is to establish a certain level of safety or protection from an unauthorized breach of the enclosure. Any non-compliant enclosure

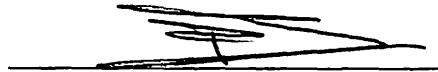
[which makes potential access to the swimming pool area easier] can only be deemed to not meet this intended minimum level of safety.

We recommend that the entire swimming pool enclosure be installed so as to comply with all provisions of the City of Toronto's Municipal Code, Chapter 447- Fences.

CONTACT

Italo Joe Luzi, North District Supervisor
Municipal Licensing & Standards Division
Tel. (416) 395-7013
Fax (416) 395-7056
E-mail: jluzi@toronto.ca

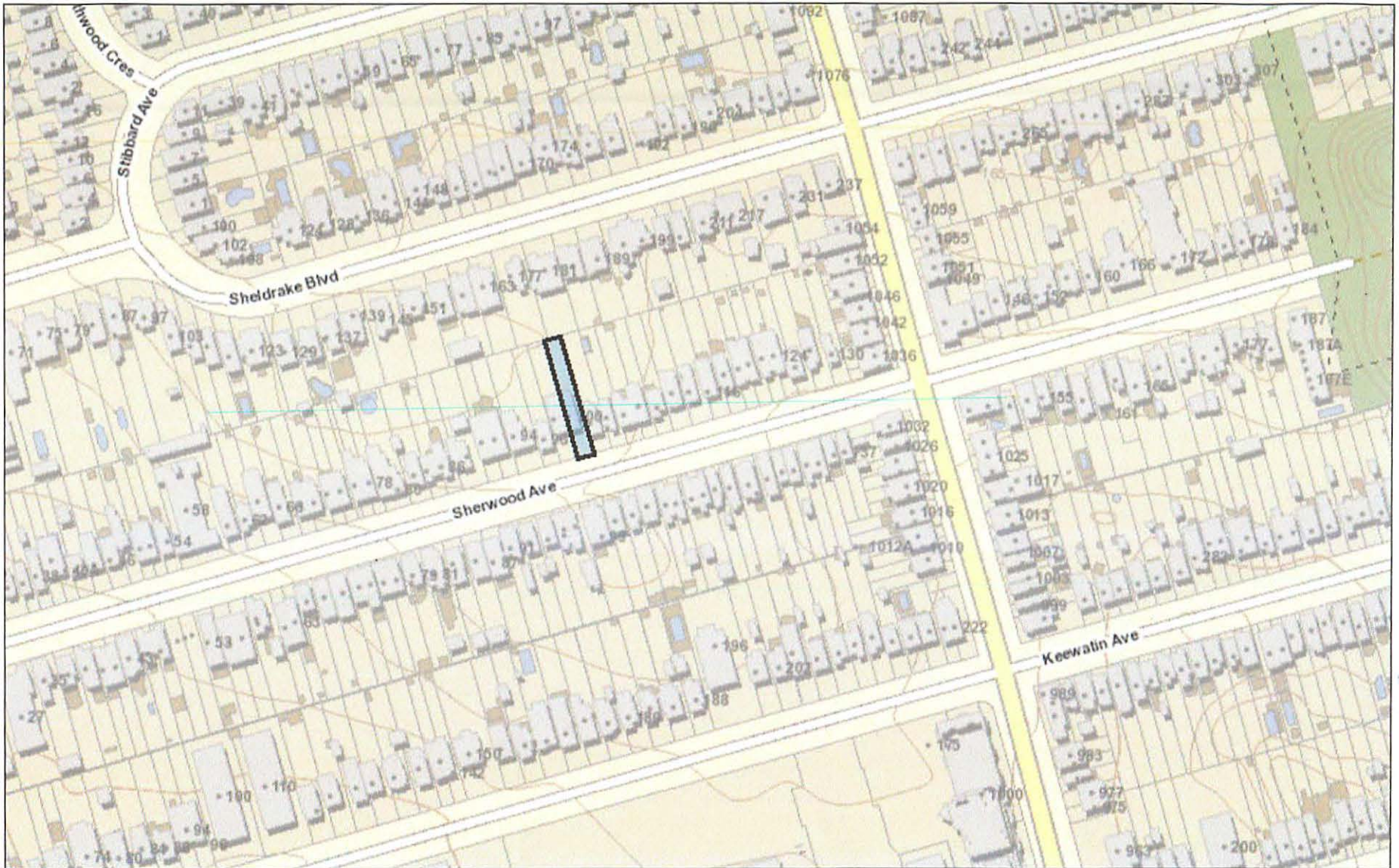
SIGNATURE



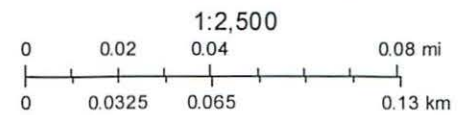
Pat Burke, North District Manager
Municipal Licensing & Standards Division

ATTACHMENTS

- Attachment 1 – Areal map of 100 Sherwood Avenue
- Attachment 2 – Permit Drawing for File # 15-229265
- Attachment 3 – Photo # 1 Showing the Pool-side Fence Profile
- Attachment 4 – Photo # 2 Showing the Neighbor-side Fence Profile



October 3, 2016



Attachment # 1 - Aerial Map of 100 Sherwood Ave.

Permit for pool fence enclosure only.
Any construction requiring a building permit must be applied for separately.

PERMIT REVIEWED FOR COMPLIANCE WITH
THE ONTARIO BUILDING CODE

15 229265 BLD 00

ZONING	Cheng, Anita	02/Oct/2015
o.b.c.	Cheng, Anita	02/Oct/2015
FIRE SERVICES		

SURVEYOR'S REAL PROPERTY REPORT
PART 1:
PLAN OF PART OF LOT
47 AND 48
REGISTERED PLAN 676-YORK
CITY OF TORONTO

SCALE 1 : 200
AKSAN PILLER CORPORATION LTD.

PART 2:
PREPARED FOR MD PRIVATE TRUST
LOCATION OF THE BUILDING: WHOLLY ON THE PROPERTY,
EAVES: CLEAR,
UTILITY BUILDINGS: NONE
DECKS: NONE
SWIMMING POOLS: NONE
EXISTING FENCES: GENERALLY ALONG THE PROPERTY
LINES, WITH DEVIATIONS AS SHOWN
ON PART 1.
EASEMENTS: NONE RECITED IN THE LAST
REGISTERED INSTRUMENT.
RIGHTS OF WAY: NONE RECITED IN THE LAST
REGISTERED INSTRUMENT.
DRIVEWAYS: AS SHOWN ON PART 1.

LEGEND:

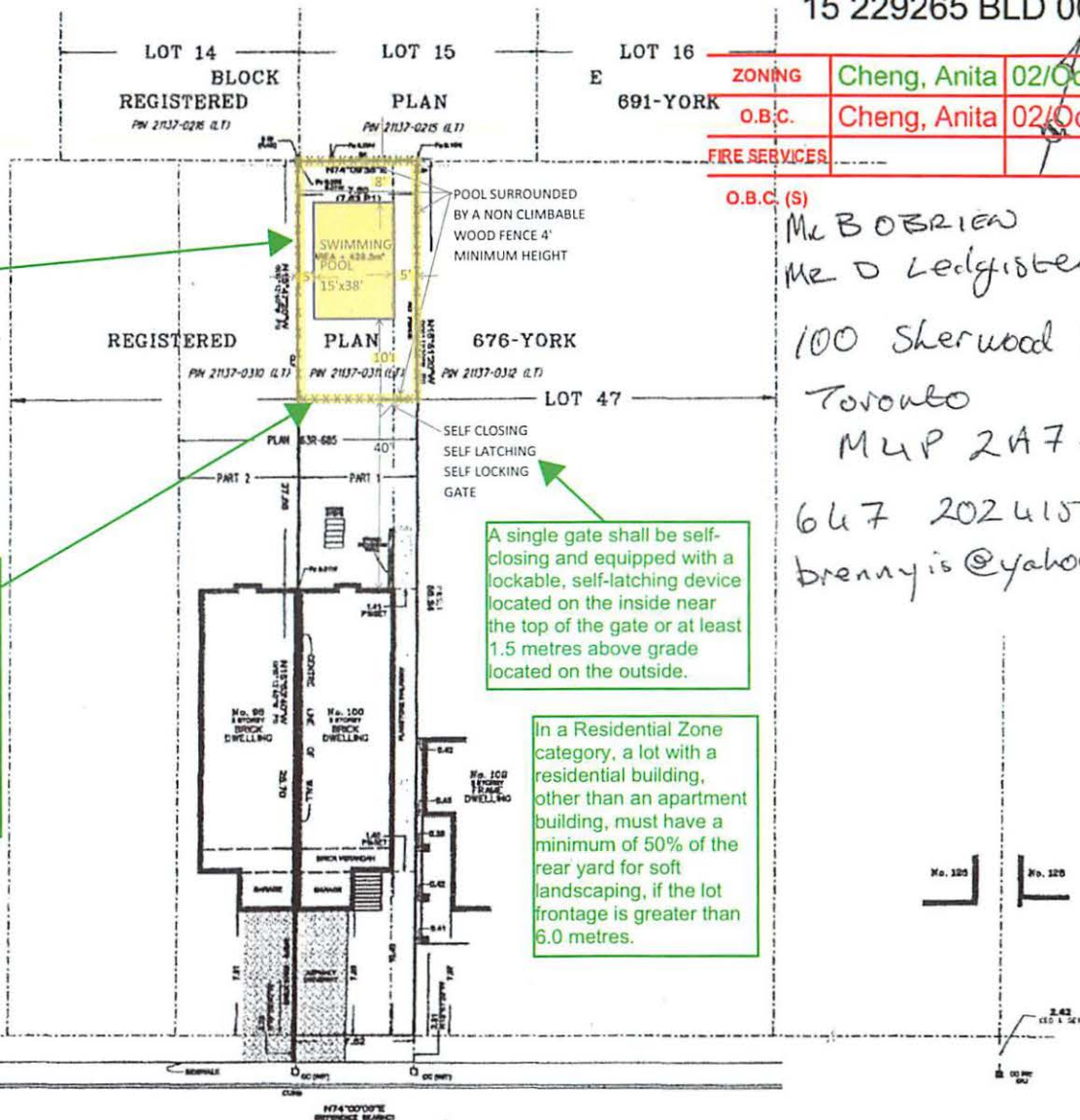
BM	DENOTES	SURVEY MONUMENT FOUND
CB	DENOTES	SURVEY MONUMENT PLANTED
IB	DENOTES	IRON BAR
SB	DENOTES	STANDARD IRON BAR
SSB	DENOTES	SHORT STANDARD IRON BAR
CC	DENOTES	CUT CROSS
CP	DENOTES	CONCRETE PIN
WT	DENOTES	WITNESS MONUMENT
O/U	DENOTES	ORIGIN UNKNOWN
N	DENOTES	NORTH
S	DENOTES	SOUTH
E	DENOTES	EAST
W	DENOTES	WEST
F	DENOTES	FENCE
CLF	DENOTES	CHAIN LINK FENCE
BF	DENOTES	BOARD FENCE
P & W	DENOTES	POST AND WIRE FENCE
D1	DENOTES	INST. No.
D2	DENOTES	INST. No.
D3	DENOTES	INST. No.
PLAN	DENOTES	REGISTERED PLAN 676-YORK
P1	DENOTES	PLAN 63R-685
UP	DENOTES	UTILITY POLE
RAS	DENOTES	ROGER A. OLVERA O.L.S. (PLAN 63R-865)
W30	DENOTES	W. S. OLSON O.L.S. (26-8767)
GD	DENOTES	C. E. DOTTERILL O.L.S. (JAN. 25, 1965)

METRIC:
DISTANCES SHOWN ON THIS PLAN ARE IN METRES AND CAN BE CONVERTED TO FEET BY DIVIDING BY 0.3048.

BEARING NOTE:
BEARINGS ARE REFERRED TO THE NORTHERLY LIMIT OF SHERWOOD AVENUE AS SHOWN ON REGISTERED PLAN 676-YORK HAVING AN ASTROMONIC BEARING ON N74°00'00".

SURVEYOR'S CERTIFICATE:
I CERTIFY THAT:
1. THIS SURVEY AND PLAN ARE CORRECT AND IN ACCORDANCE WITH THE SURVEYORS ACT, THE SURVEYORS ACT AND THE LAND TITLES ACT AND THE REGULATIONS MADE UNDER THEM.
2. THE SURVEY WAS COMPLETED ON THE 29th DAY OF APRIL, 2015.

APR 29, 2015
DATE
Diana Aksen
Ontario Land Surveyor
AKSAN PILLER CORPORATION LTD.
ONTARIO LAND SURVEYORS
843 MT PLEASANT ROAD, TORONTO, ONTARIO, M9P 2L7
(416) 461-1174 (F) (416) 461-1173 (T) www.aksanpiller.com
Reference Number: 15-31-6883-00



A swimming pool enclosure, including any gate forming part of the enclosure, shall be no closer than one metre to any external condition that may facilitate climbing the outside of the enclosure unless the height of the enclosure is at least 1.8 metres for a distance of at least one metre on each side of the condition.

Every fence and gate used as part of a swimming pool enclosure which forms the part of the enclosure that separates the pool from any residential building shall be of construction that does not restrict visibility of the pool from any door or window that is located on the access level of the building, and which has a line of sight to the pool.

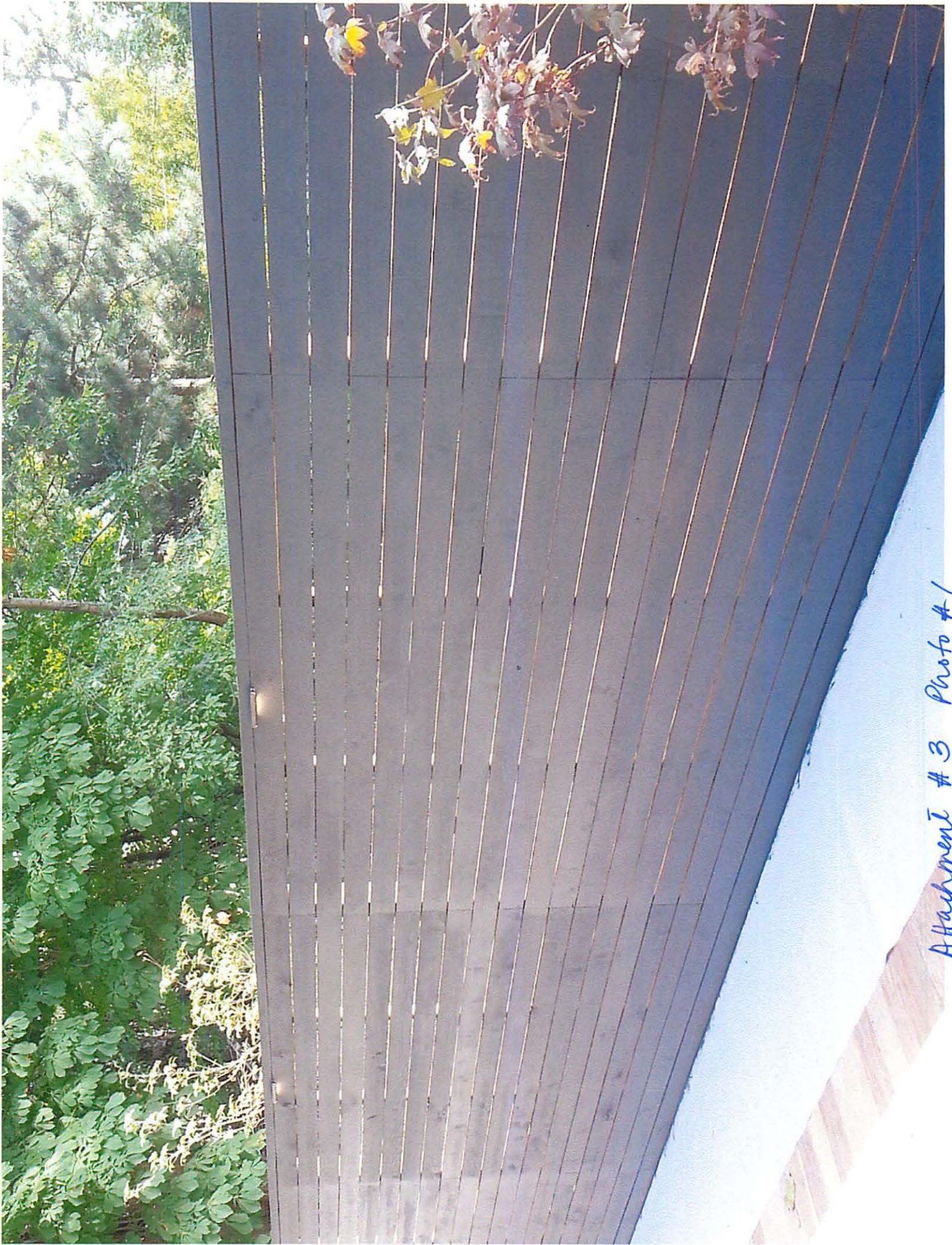
A single gate shall be self-closing and equipped with a lockable, self-latching device located on the inside near the top of the gate or at least 1.5 metres above grade located on the outside.

In a Residential Zone category, a lot with a residential building, other than an apartment building, must have a minimum of 50% of the rear yard for soft landscaping, if the lot frontage is greater than 6.0 metres.

O.B.C. (S)
Mc BOBRIEN
Mr D Ledgister.
100 Sherwood Ave
Toronto
M4P 2A7.
647 2024150
brennyis@yahoo.ca.

SHERWOOD AVENUE

BY REGISTERED PLAN 676-YORK
PIN 21137-0037(LT)



Attachment # 3 Photo #1



Attachment # 4 - Photo # 2