

Presentation to Property Standards Committee – Toronto and East York Panel

February 28th, 2022

Delivered By: Tara Piurko, Miller Thomson LLP,
Michael Simone & Salima Rawji (Registered Owners 69 Riverview Gardens)

ADJOURNMENT REQUEST

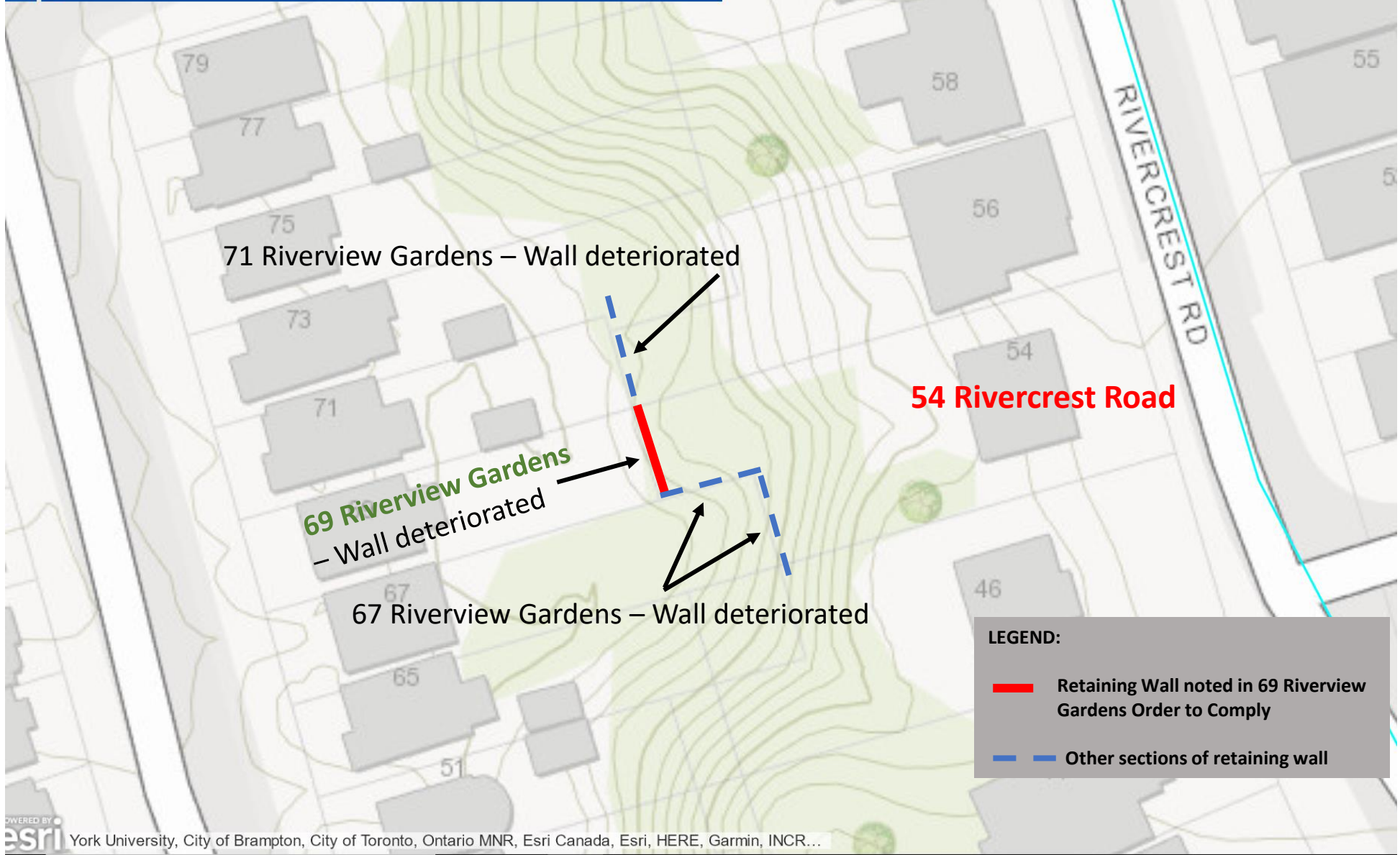
Request of Property Standards Committee

Written correspondence submitted to City on February 14, 2022 requesting an **adjournment and rescheduling** to June 2022 or thereafter based on:

- Our scheduled appointments at Toronto Archives were recently cancelled due to the ongoing public health situation. We require access to the Archives to complete investigative work on original subdivision pertaining to the retaining wall ownership and responsibility. Confirmation of cancellation provided with adjournment request;
- Experts and/or consultants the Registered Owners intended to have attend the property have been unable to do so given frozen soil as well as the recent episodes of heavy snowfall and inclement weather. As a result, access to and visual inspection of the area where the retaining wall resides has not been possible.
- We have not been provided with a high resolution CAD version of the property survey completed by 54 Rivercrest Road which was used by Municipal Licensing and Standards to determine the location of the retaining wall in question. We kindly request this be provided so that we can have it peer reviewed by an expert.

**SHOULD ADJOURNMENT REQUEST NOT
BE GRANTED, THE FOLLOWING
INFORMATION IS OFFERED.**

**(NOTE, ADDITIONAL INFORMATION IS STILL BEING GATHERED AND
THEREFORE THIS EVIDENTIAL RECORD IS NOT COMPLETE.)**



71 Riverview Gardens – Wall deteriorated

69 Riverview Gardens
– Wall deteriorated

67 Riverview Gardens – Wall deteriorated

54 Rivercrest Road

LEGEND:

- Retaining Wall noted in 69 Riverview Gardens Order to Comply
- Other sections of retaining wall

Photo Documentation



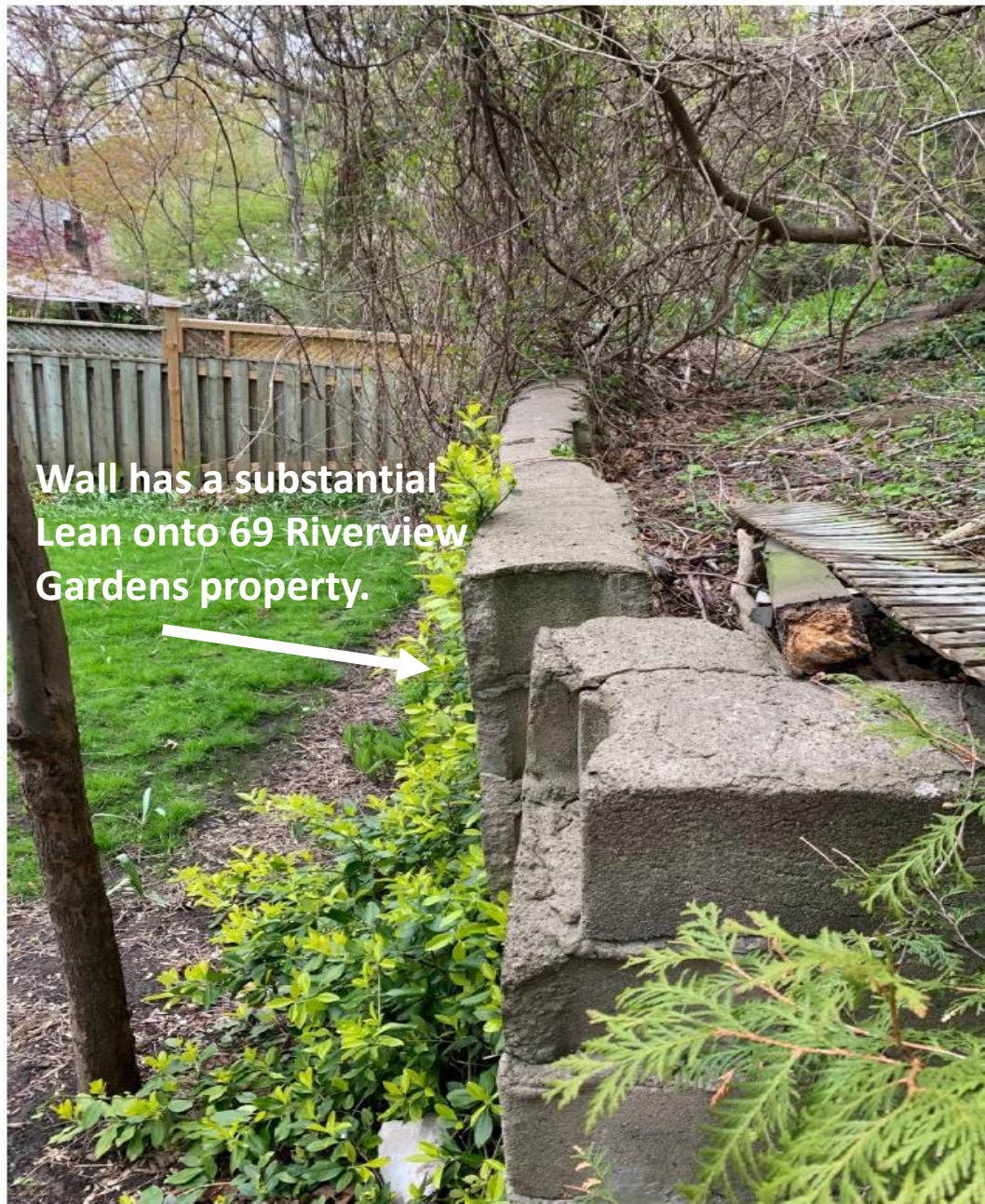


Photo Date: May 5, 2020

Figure 1. View showing wall leaning.



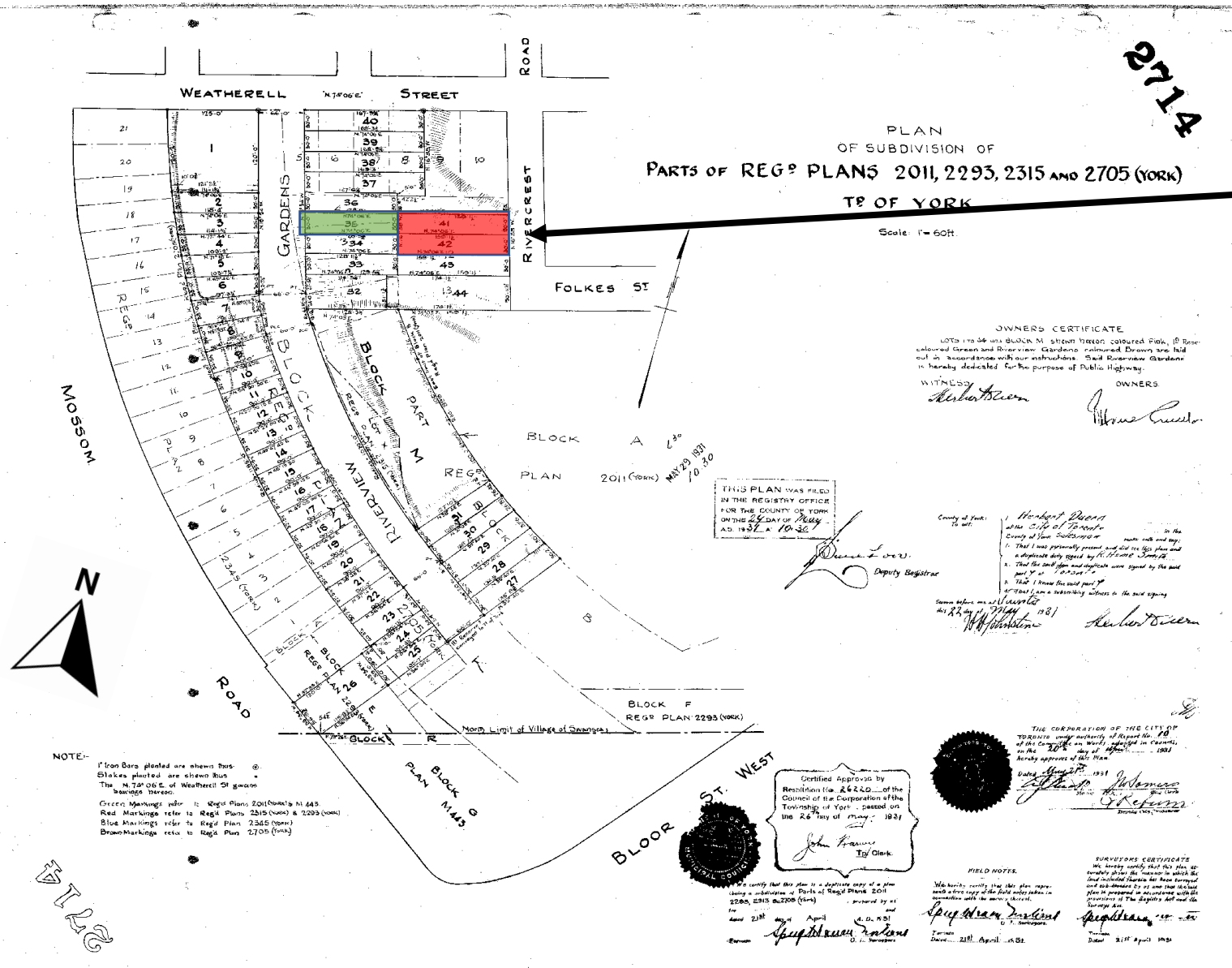
Figures 2,3, 4. Views showing retaining wall deterioration.



Wall leaning is so extreme that it pushed over a portion of 69 Riverview Gardens fence in May 2019. (Fence shown is that of 69 Riverview Gardens)

Notice the top course of blocks have been displaced and bottom course of blocks is materially inset when compared to top course.

Original Plan of Subdivision – 1931 (Plan 2714)



Green: 69 Riverview Gardens Lot

Red: 54 Rivercrest Road Lot

Note, both lots for 69 Riverview Gardens and 54 Rivercrest Road were established in same Plan of Subdivision in 1931.

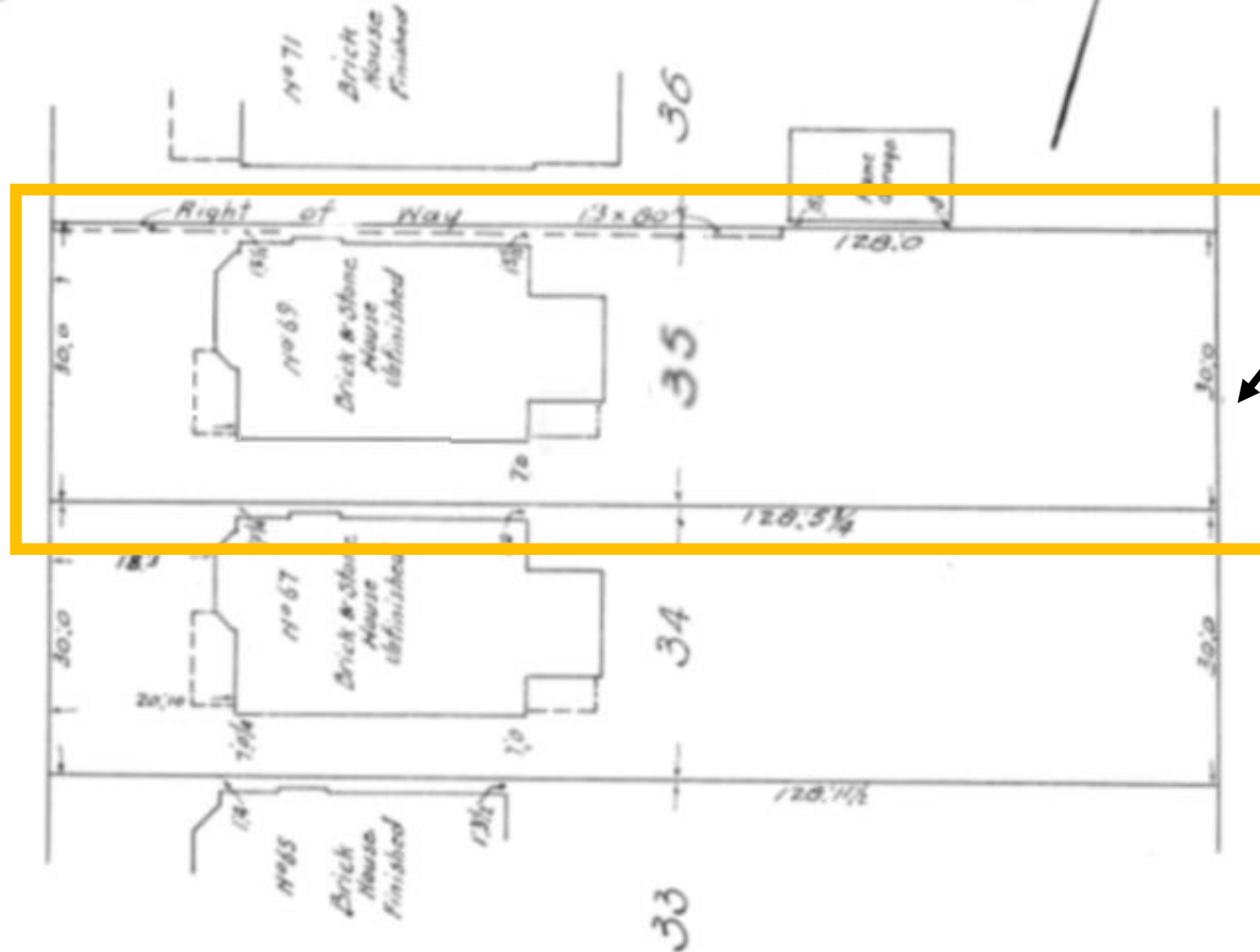
69 Riverview Gardens Survey - 1934

606 Indian Road
Toronto, Ont. 24th 1934
Abrley & Co
O.L. Surveyors

Sketch of Survey of
Houses being erected on
LOTS 34 & 35, PLAN 2714
Tp of York



Riverview Gardens

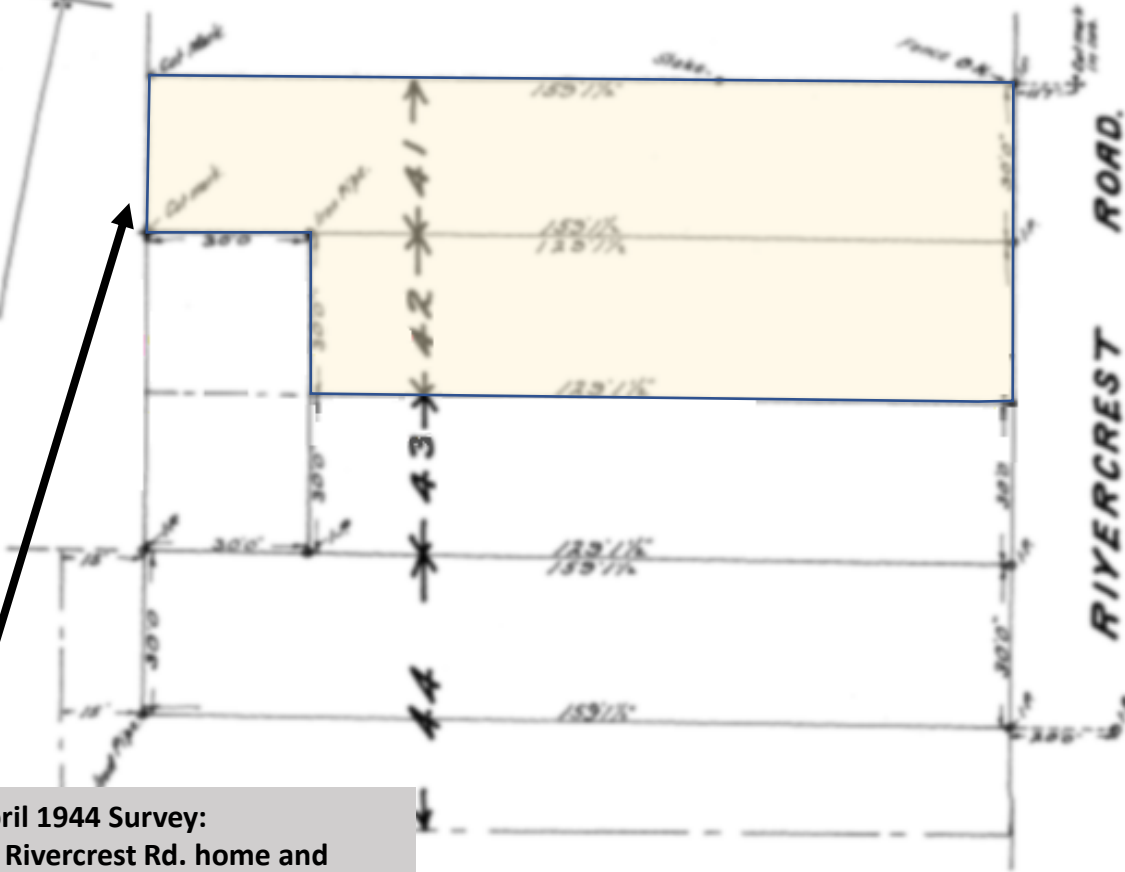


69 Riverview Gardens home was built in 1934. This survey is also from 1934.

No Retaining Wall on 69 Riverview Gardens Lands

54 Rivercrest Road Survey- 1944 and 1945

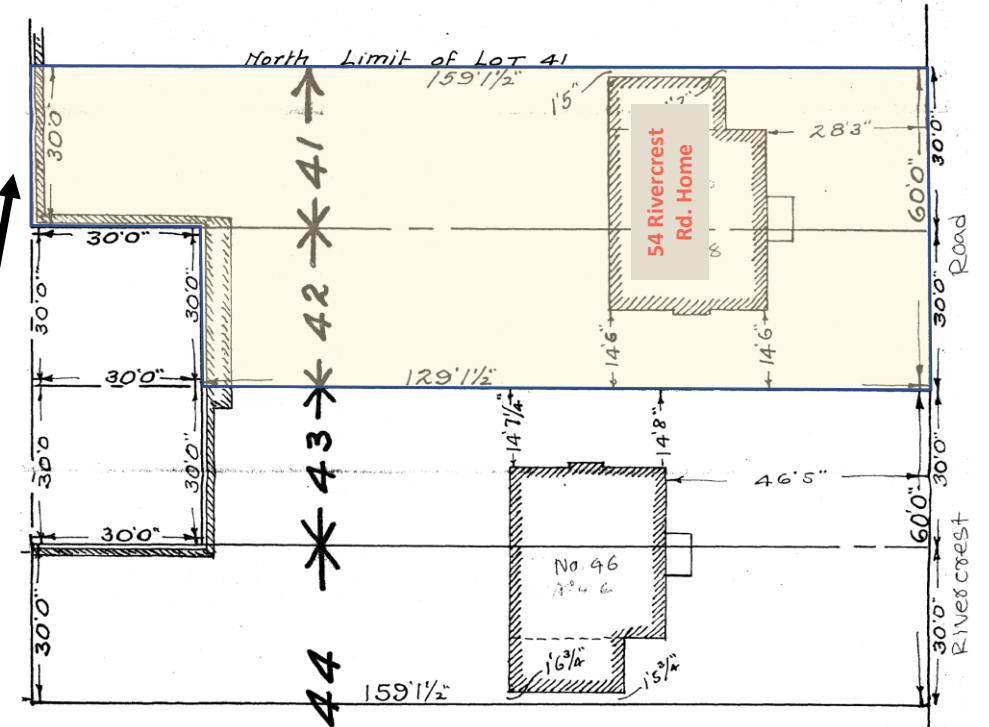
Sketch Showing
LOT 41 and PART OF LOTS 42
43 and 44-REG'D PLAN 2714
COUNTY OF YORK.
Scale: 20 Feet = 1 inch.



April 1944 Survey:
54 Rivercrest Rd. home and
retaining wall are not built; no
retaining wall shown on survey.

Browne & Cavell
Ontario Land Surveyors.
Toronto Oct. 26th 1936.
Resubd. April 11th 1944

Sketch Showing
LOT 41 and PART OF LOTS 42
43 and 44-REG'D PLAN 2714
COUNTY OF YORK.
TOWNSHIP OF YORK.
Scale: 1" = 20'

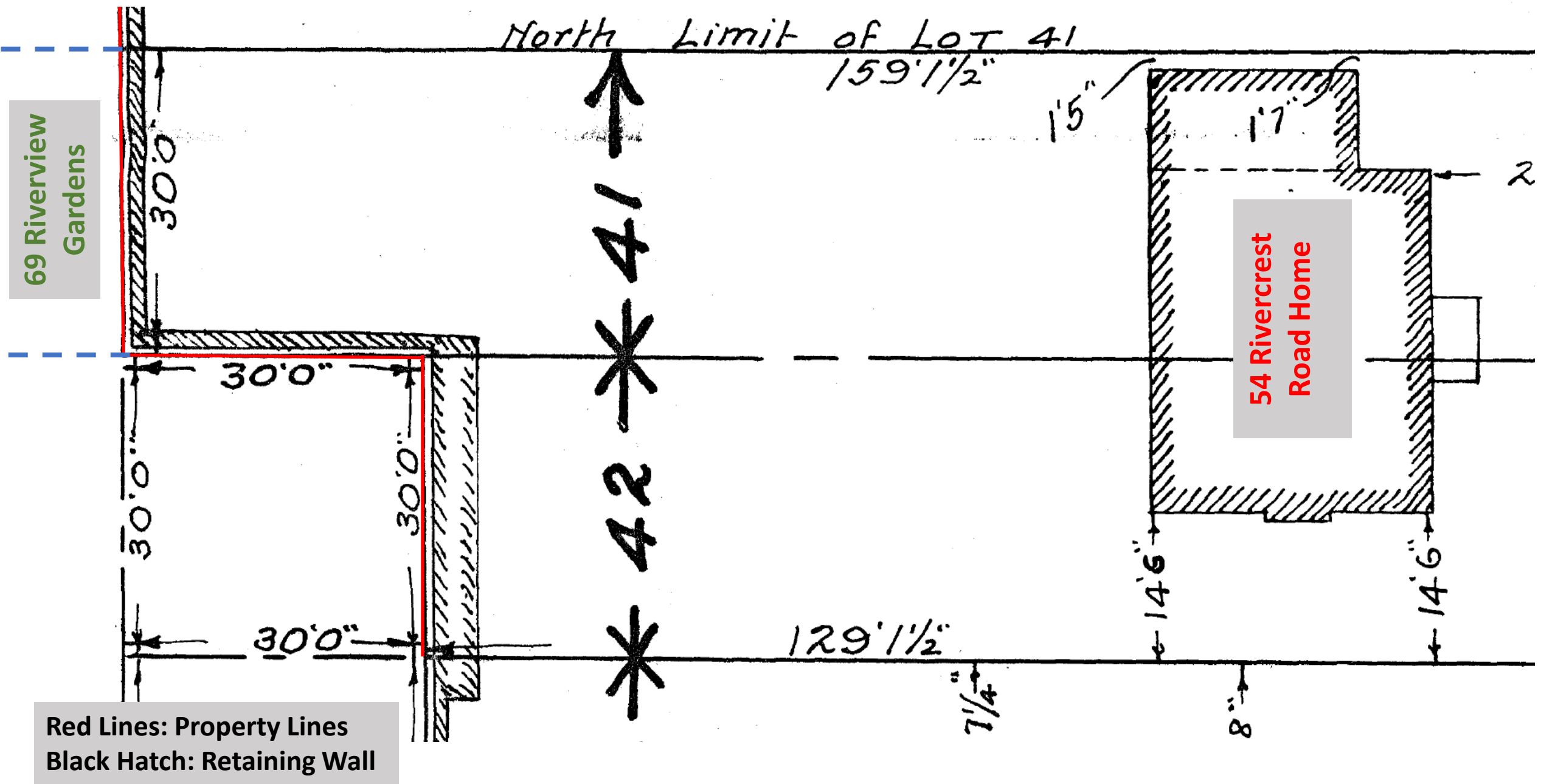


April 1945 Survey:
54 Rivercrest Road home is now built.
Home build date also confirmed by the 54
Rivercrest legal counsel (Baker Law).

Survey shows Retaining Wall 100% within
54 Rivercrest Road property limits.

Browne & Cavell
Ontario Land Surveyors.
Toronto April 23rd 1945.

Detail of 54 Rivercrest Road Survey- 1945



69 Riverview Gardens Survey - 1955

(RECORDS ON FILE)
ABREY & CO., O.L.S.
S. LANSON, O.L.S.
M. M. GIBSON, O.L.S.

W. S. GIBSON & SONS
ONTARIO LAND SURVEYORS
ESTABLISHED 1820
1851 YONGE STREET

TORONTO 12, ONT. July 13th, 1955.

C. W. GIBSON
121 NORTHALE RD.
N.W. 1 YORK MILLS
RESIDENCE: HU. 9-0970

REFERENCE NO.

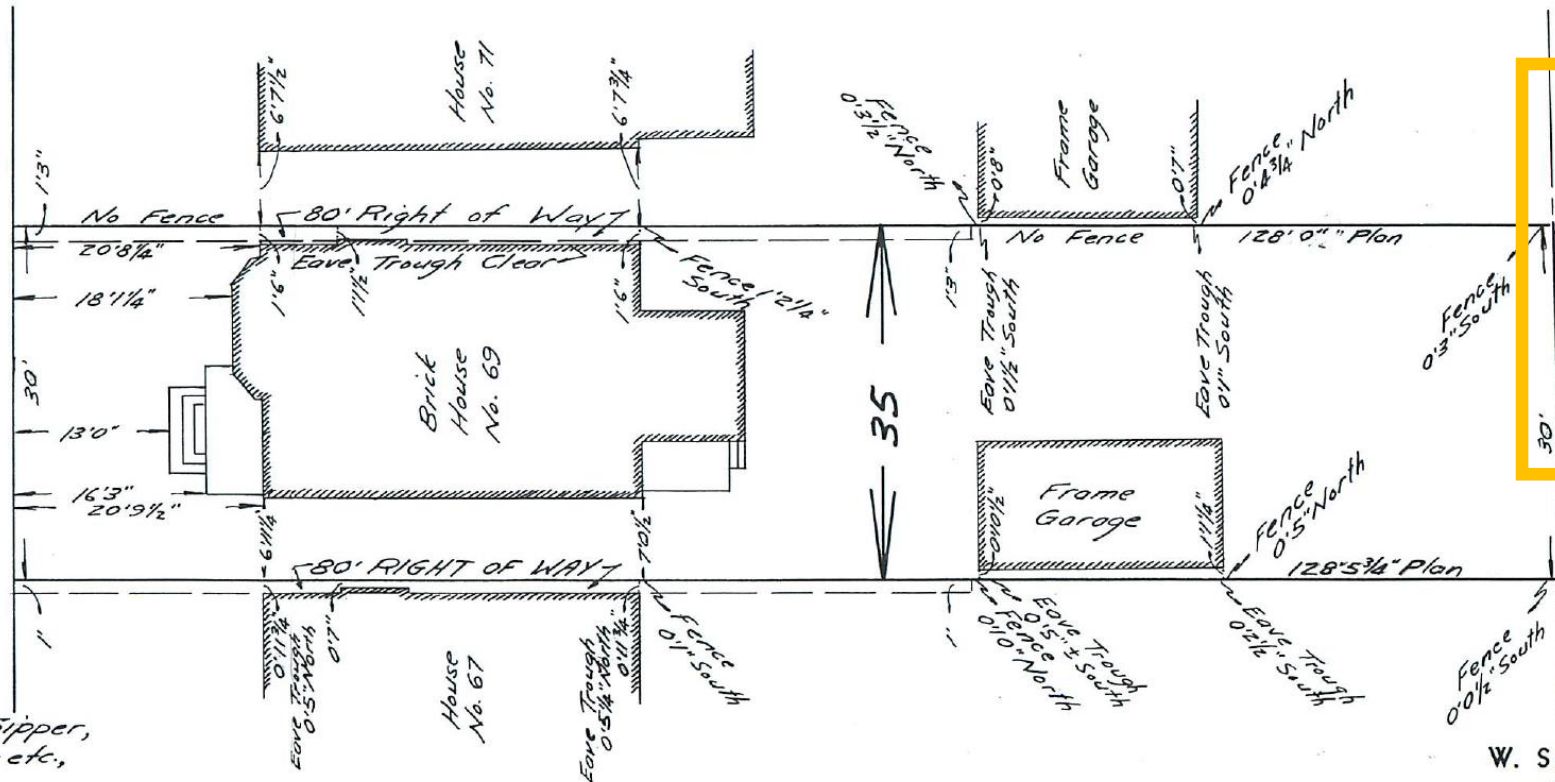
1
2714.Y

*Sketch of survey of Lot 35, Plan 2714,
Township of York, County of York.*

Survey Clearly States: West Face of Concrete Retaining Wall located 11.5 inches East of Property Line.

100% within 54 Rivercrest Rd property limits.

Riverview Gardens



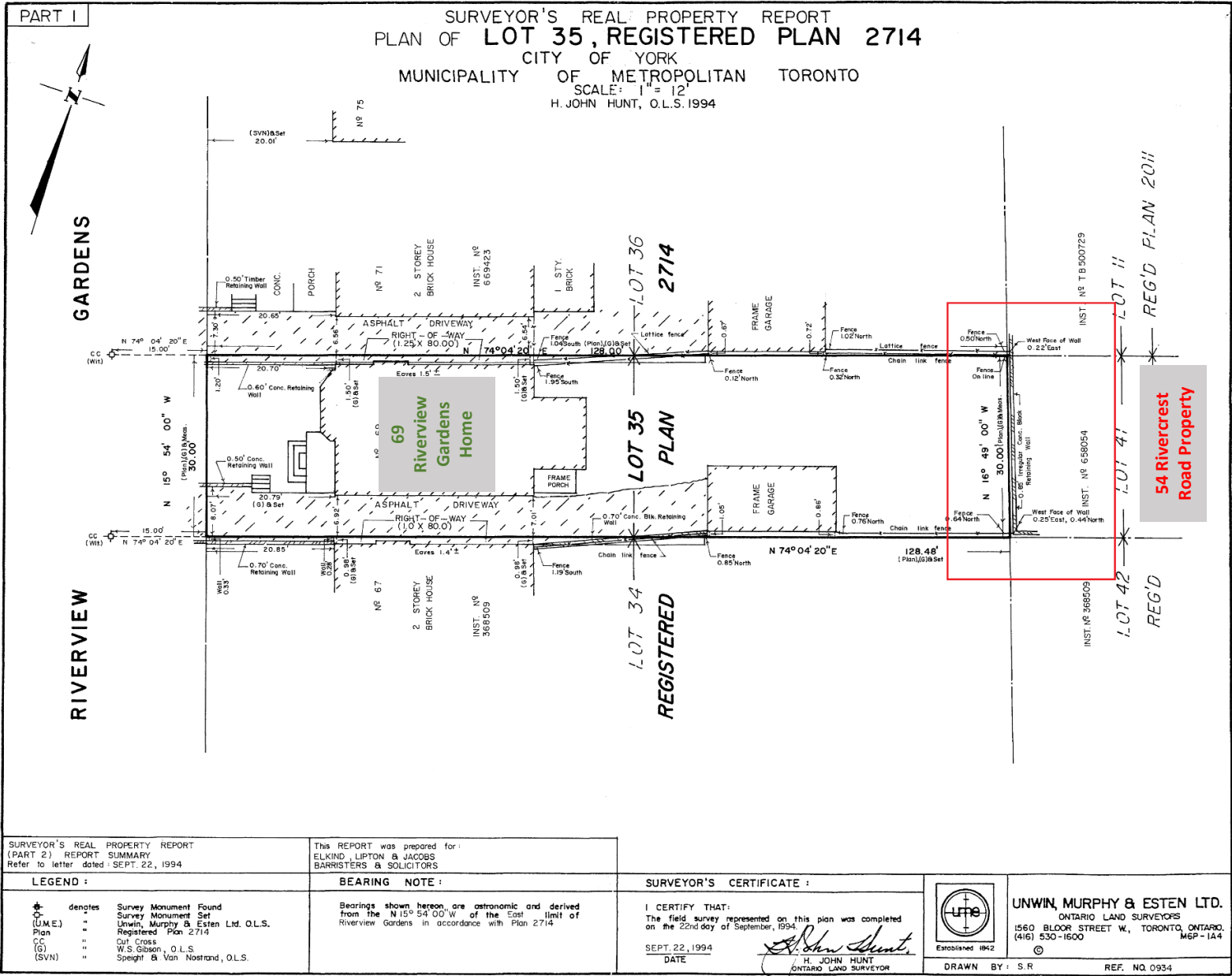
Survey Clearly States: West Face of Concrete Retaining Wall located 5 inches East of Property Line.

100% within 54 Rivercrest Rd property limits.

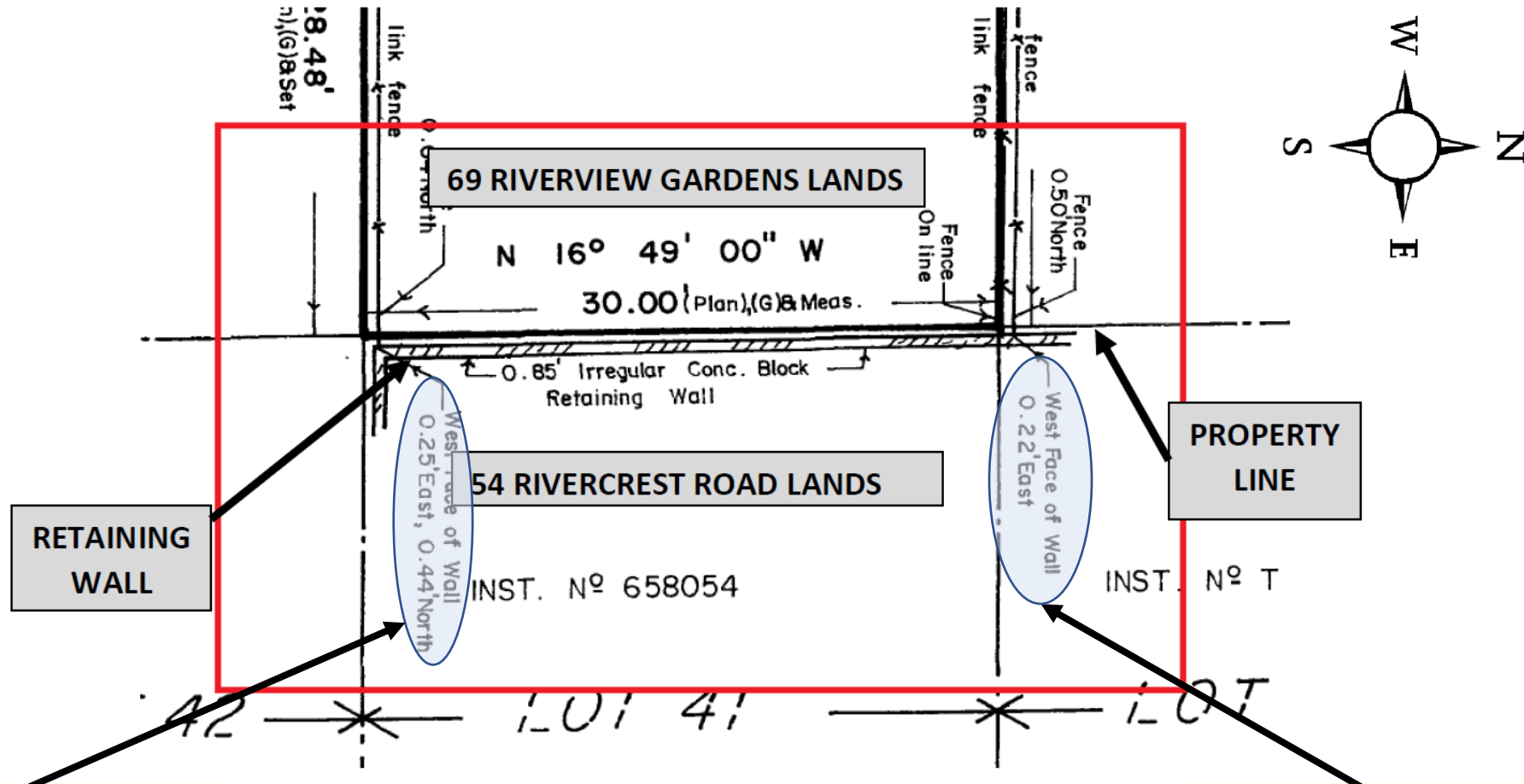
For:-
Mr. William Henry Sipper,
Barrister etc.,
600 Bay Street,
Toronto, Ontario.

W. S. GIBSON & SONS
ONTARIO LAND SURVEYORS
13.2

69 Riverview Gardens Survey – 1994



Detail of 69 Riverview Gardens Survey – 1994



****Note Comment** West Face of Wall is 0.25 feet (3.0 inches) East of Property Line. Compared to measurement (5 inches) on 1955 W.S. Gibson & Sons Survey, the wall has moved West by 2 inches over a period of 39 years.**

SURVERY CONFIRMS RETAINING WALL IS FULLY LOCATED ON 54 RIVERCREST ROAD LANDS

****Note Comment** West Face of Wall is 0.22 feet (2.64 inches) East of Property Line. Compared to measurement (11.5 inches) noted on 1955 W.S. Gibson & Sons Survey, the wall has moved West by 8.86 inches over a period of 39 years.**

Feb 18, 2022 Letter from Surveying Firm that Completed 1955 Survey

Surveyor contact

Adam Werrell [REDACTED]
To: Michael Simone <michael.simone@gmail.com>

Fri, Feb 18, 2022 at 11:20 AM

Michael,
Good chatting with you, and thank you for sharing the historic surveys of your property and the neighbours to the East.
From looking at the 3 surveys I see the following in relation to the structure along the rear of your property, No. 69 Riverview Gardens.

Browne & Cavell OLS, (B&C) Survey showing Lot 41, and Part of Lots 42, 43 & 44, Registered Plan 2714, dated April 23, 1945:

Lot 41 is directly East of (Behind) your Property (being Lot 35,) both properties are on the same Registered plan (RP) 2714.
On the B&C survey along the West limit of Lot 41 is illustrated a structure that although it has no locating dimensions would appear to be **wholly contained on Lot 41.**
The Structure is not identified as a Retaining Wall, and the construction material of the structure is not noted on the face of the survey. This information might be included on the Field Notes from the preparation of the survey, but I do not have access to this information at this time.

W.S. Gibson & Sons Ltd OLS, (WSG) survey showing Lot 35, Registered Plan 2714, completed July 13, 1955:

The WSG survey illustrates ties to a "Concrete Wall" running along the rear (East) limit of Lot 35. (The wall itself is not illustrated on the survey, only the ties measured to the Concrete Wall are noted.)
The ties noted on the plan range from 11 1/2" East at the North end of the Wall, to 5" +/- East approximately in the middle of the Concrete Wall. There is no dimension at the Southeast corner of Lot 35 to any structure at that corner.
The Notation "EAST" on this survey indicates that the **Concrete Wall where located is contained on Lot 41, you rear neighbours property.**

Unwin, Murphy & Esten Ltd OLS, (UME) survey showing Lot 35, RP 2714, completed on September 22, 1994

The UME survey illustrates a 0.85' (10 3/8") Irregular Concrete Block Retaining Wall (CBRW) along the Rear limit of your property.
According to the measurements on the UME survey the WEST face of the CBRW is:
0.22' (2 5/8") East of the rear limit of Lot 35 at the Northeast corner of Lot 35, and
0.25' (3") East of the rear limit of Lot 35 at the Southeast corner of Lot 35.
As mentioned above ties that are East of the Rear limit of Lot 35 would mean the CBRW **is wholly located on Lot 41 (i.e. on your rear neighbours property.)**

PLEASE NOTE:

These are observations made from reading the 3 surveys, and are not the result of a field investigation by myself or Speight Van Nostrand and Gibson Ltd.

Sincerely,
Adam Werrell

Adam J. Werrell
Ontario Land Surveyor
Speight, Van Nostrand & Gibson Ltd.
[REDACTED]

**Note: Lot 41 is the 54
Rivercrest Road Property**

Toronto Municipal Code, Chapter 629, Property Standards

TORONTO MUNICIPAL CODE CHAPTER 629, PROPERTY STANDARDS

ARTICLE III

General Duties and Obligations

§ 629-4. Compliance required.

- A. No person shall use, occupy, permit the use or occupancy of, rent, or offer to rent, any property that does not conform with the standards prescribed in this chapter.
- B. No basement or any portion of a basement shall be used or permitted to be used as a habitable room or dwelling unit unless each habitable room complies with all requirements for egress, light, ventilation and ceiling height set out in this chapter.

§ 629-5. Owner's duties.

The owner of property shall:

- A. Repair, maintain and keep clean the property in accordance with the standards and take immediate action to eliminate any unsafe condition; and
- B. Ensure that every supplied facility in or on the property is: [Amended 2009-05-27 by By-law No. 570-2009⁷]
 - (1) Constructed, installed and maintained so that it will function safely and effectively;
 - (2) Kept in a satisfactory working condition; and
 - (3) Available for use by the occupants and other users of the property in accordance with the standards.

Toronto Municipal Code, Chapter 629, Property Standards

TORONTO MUNICIPAL CODE CHAPTER 629, PROPERTY STANDARDS

§ 629-14. Retaining walls.

Retaining walls shall be structurally sound and plumb, unless specifically designed to be other than vertical, and shall be maintained in good repair and free from hazard.

Building Code Act 1992 – s15.3 (7) Effect of decisions

(7) An order that is deemed to be confirmed under subsection (2) or that is confirmed or modified by the committee under subsection (3) or a judge under subsection (6), as the case may be, shall be final and binding upon the owner and occupant who shall carry out the repair or demolition within the time and in the manner specified in the order. 1997, c. 24, s. 224 (8).

Procedural Error (Building Code Act 1992 – S15.2)

Inspection of property without warrant

15.2 (1) Where a by-law under section 15.1 is in effect, an officer may, upon producing proper identification, enter upon any property at any reasonable time without a warrant for the purpose of inspecting the property to determine,

- (a) whether the property conforms with the standards prescribed in the by-law; or
- (b) whether an order made under subsection (2) has been complied with. 1997, c. 24, s. 224 (8).

Contents of order

(2) An officer who finds that a property does not conform with any of the standards prescribed in a by-law passed under section 15.1 may make an order,

- (a) stating the municipal address or the legal description of the property;
- (b) giving reasonable particulars of the repairs to be made or stating that the site is to be cleared of all buildings, structures, debris or refuse and left in a graded and levelled condition;
- (c) indicating the time for complying with the terms and conditions of the order and giving notice that, if the repair or clearance is not carried out within that time, the municipality may carry out the repair or clearance at the owner's expense; and
- (d) indicating the final date for giving notice of appeal from the order. 1997, c. 24, s. 224 (8).

Procedural Error (Order to Comply, 69 Riverview Gardens)

**Toronto**
Municipal Licensing and Standards

Central District
433 Eastern Avenue Bldg B, 2nd Floor
Toronto, ON M4M 1B7

Order issued to:

MICHAEL ALEXANDER SIMONE
69 RIVERVIEW GDNS
TORONTO, ON M6S 4E6
CAN

PROPERTY STANDARDS ORDER
Issued pursuant to Subsection 15.2(2) of
the *Building Code Act, S.O., 1992 Chapter 23, as amended.*

Date issued: December 9, 2021
Folder #: 21 245429 PRS 00 1V
RN

Address to which Order Applies: 69 RIVERVIEW GDNS
Legal Description: PLAN 2714 LOT 35
Roll Number: 1914081040024000000

The above referenced property, which is owned by you or in which you have an interest, was inspected by a Bylaw Enforcement Officer on or about April 7, 2021. This inspection found conditions on the property which are contraventions of the standards prescribed by Toronto Municipal Code, Chapter 629, Property Standards.

You are hereby ordered to correct the contraventions listed below in order to bring this property into compliance with the prescribed standards by the dates identified for each contravention.

Item #	Bylaw Section	Location and Description	Required Action	Compliance Date
1	14.	East Side of Property: The retaining wall is not being maintained in good repair.	Obtain permits from Toronto Regional Conservation Authority and Toronto Buildings for the permanent repair, stabilization or reconstruction of the shard retaining wall with 67 Riverview Gardens and 54 Rivercrest Road.	January 28, 2021

Order issued by:

Name: Michael Antoniou Telephone: 647-333-5012 Email: Michael.Antoniou@toronto.ca

Address: 433 Eastern Ave, 2nd Floor

1. Compliance Date of January 28, 2021 stated on Order to Comply is earlier than Date of Issuance (Dec 9, 2021) – error on legal document;
2. The 69 Riverview Gardens Order to Comply states that property was inspected on April 7, 2021- 16 days after the order to comply and corresponding repair obligation had been confirmed for 54 Rivercrest Rd and two days before the City of Toronto hand delivered a letter to 69 Riverview Gardens alerting them of the immediate danger of the retaining wall located on the property at 54 Rivercrest Rd.
3. S 15.2 of Ontario Building Code Act expressly requires that a Bylaw Officer identify themselves to the Owners prior to inspecting a property. Mr. Michael Antoniou never identified himself to the Owners, nor did he directly access our property. We have never even spoken to Mr. Michael Antoniou. Any inspection that apparently occurred was not carried out in accordance with the Property Standards Bylaw and Building Code Act requirements.

Procedural Error: Building Code Act, 1992 S 15.7



On April 9, 2021, Municipal Licensing and Standards hand delivered a letter to the Owners of 69 Riverview Gardens advising that the “wall located on the property within the municipal address of 54 Rivercrest Rdposes an immediate danger to the health or safety of persons”.

The City of Toronto stated they would be taking “further steps...and [would] contact the [Owners] early next week” in relation to eliminating this immediate danger.

To date, the City of Toronto have not contacted the Owners of 69 Riverview Gardens and have taken no steps to reduce or terminate this danger. Instead, The City of Toronto has allowed this safety issue to persist since July 23, 2020 when the City of Toronto first inspected the 54 Rivercrest wall. This is contrary to the obligation in the Building Code Act, 1992 S 15.7(1) where “remedial repairs [are required] to be carried out immediately to terminate the danger.

Building Code Act, 1992

S.O. 1992, CHAPTER 23

Emergency order re dangerous non-conformity with standards

15.7 (1) If upon inspection of a property the officer is satisfied that there is non-conformity with the standards in a by-law passed under section 15.1 to such extent as to pose an immediate danger to the health or safety of any person, the officer may make an order containing particulars of the non-conformity and requiring remedial repairs or other work to be carried out immediately to terminate the danger. 1997, c. 24, s. 224 (8).

Request of Property Standards Committee

We respectfully request that the Property Standards Committee **rescind the Order to Comply issued against 69 Riverview Gardens** given the substantial and material evidence that exists confirming we share no ownership interest in or responsibility for the retaining wall in question.

Furthermore, we request that the Property Standards Committee **enforce the original Order to Comply issued against 54 Rivercrest Road** in a timely manner to ensure the safety of all persons and residents.