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November 29, 2022

Our File No. 145782

**BY EMAIL – [teycc@toronto.ca](mailto:teycc@toronto.ca)**

Toronto and East York Community Council  
Toronto City Hall, 2nd Floor  
100 Queen Street  
Toronto ON M5H 2N2

**Attention: Ellen Devlin, Secretariat**

Dear Ms. Devlin:

**Re: Fence Exemption Application – Supplementary Materials for Presentation  
191 Dunvegan Road  
In response to Notice of Violation (22 147996 FEN 00 IV)**

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Aird and Berlis LLP acts on behalf of Joanne Fox, the owner with respect to the property municipally known as 191 Dunvegan Road, in the City of Toronto (the “Site”).

On behalf of our client, our office filed a Fence Exemption Application on May 30, 2022, in response to a Notice of Violation our client received for the basketball screen located on the east side of the Site.

In order to assist the Toronto & East York Community Council with the review of this item, we have enclosed supplementary materials in addition to those appended to the Staff Report including:

1. The cover letter filed with the Fence Exemption Application to provide some background on this matter;
2. The Site Plan from our client’s 2018 Committee of Adjustment application, including the original plans filed with the City and a letter of opposition from their neighbours at 189 Dunvegan Road setting out their specific concerns with respect to the proposed “sports court” in our clients’ rear yard which the basketball screen was intended to address; and
3. A photograph taken from our client’s rear yard, looking east to the 189 Dunvegan property, in which a chimney stack for the neighbours’ sauna house is clearly visible.

We respectfully submit that, as can be expected in an urban context, our client presently sees items in their neighbours’ yard which exceed the fence height. Our client has taken steps to gradually screen the chimney through the use of plantings, which we submit is an appropriate solution and one available to the neighbours at 189 Dunvegan Road respecting the basketball screen. This is particularly the case when one considers that the approximate width of the basketball screen is 204 inches, or 5.2 metres. When considered in relation to the depth of the

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rear yard at 189 Dunvegan Road, the width of the screen represents merely 15% of the entire length of the neighbours' rear yard.

In our submission, the enclosed materials demonstrate that our client has been transparent with the intended use of a portion of their rear yard as a "sports court" with a basketball net along the east lot line since they filed their application to the Committee of Adjustment in February 2018. Our clients have taken all reasonable steps to respond to their neighbours' stated concerns with respect to balls coming over the fence and into their yard so as to avoid any nuisance or damage claims. Moreover, the design of the basketball screen, which is open netting which impedes neither light nor the movement of air across the neighbours' yards, is such that any impacts, which we submit can only be aesthetic, are minimal and easily mitigated by the neighbours.

Please accept the enclosed supplementary materials provided to the Toronto & East York Community Council to assist in their consideration of this item:

1. The cover letter for the Fence Exemption Application;
2. The Site Plan originally filed with our client's 2018 Committee of Adjustment application;
3. The opposition letter from the neighbours at 189 Dunvegan Road, filed in response to our client's 2018 Committee of Adjustment application; and
4. A photograph depicting the chimney for the sauna house at 189 Dunvegan Road.

We will be in attendance at the TEYCC meeting tomorrow and available to make a deputation and answer any questions which may arise.

Yours truly,

AIRD & BERLIS LLP



Eileen Costello  
EPKC/NM

c. Client

51287560.2

AIRD BERLIS

May 30, 2022

Municipal Licensing and Standards  
Investigation Services  
Central District  
433 Eastern Ave.  
Building B, 2nd Floor  
Toronto, ON, M4M 1B7

Dear Sir or Madam:

**Re: Fence Exemption Application  
191 Dunvegan Road  
In response to Notice of Violation (22 147996 FEN 00 IV)**

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Aird and Berlis LLP acts on behalf of Joanne Fox, the owner with respect to the property municipally known as 191 Dunvegan Road, in the City of Toronto (the “Site”).

Our client received a Notice of Violation on May 17, 2022 as a result of an inspection by Bylaw Enforcement Officer Elliott de Barros. The Notice of Violation cited a contravention of Toronto Municipal Code, Chapter 447, Fences, as amended (the “Fence Bylaw”) with respect to the removeable basketball screen on the sport court on the Site. The description of the alleged violation notes: “Height of the fence exceeds the height permitted by the Chapter., namely; 3.20 m average height for basketball net screens (2) erected within a recreational area and within 1.0 m horizontally from an approximate 0.80 m change in grade at south lot-line” with reference to section 1.2B.(1).

The basketball screen is located on the east side of the property, on the upper deck of the rear yard. The height of the screen is approximately 3.2 metres, above the lawful height of the fence, in order to act as a safety measure to prevent basketballs from landing outside of the Site onto the adjacent properties. The screen consists of two panels made of soft mesh with a metal frame. Each panel is approximately 120 inches tall and 102 inches wide.

In 2018, our client sought minor variances to permit the dwelling as it exists today. The neighbours to the east (189 Dunvegan) wrote in to the Committee of Adjustment in advance of the hearing, objecting to the application on a number of grounds. One of the grounds was our client’s intention to install a basketball net facing the eastern lot line. A copy of this letter is enclosed, but we would particularly note the following excerpt:

“The neighbours plan to have a basketball hoop face east adjacent to our property. We have a perennial garden along the fence that will be damaged when balls keep coming over the fence into our yard. This was a constant occurrence with the previous owner who had a basketball hoop adjacent to the fence. We suggest that they place their hoop westward towards their own property.”

By installing the basketball screen, our client has ensured that their neighbours’ concerns were addressed, as these same neighbours continue to reside at 189 Dunvegan today.

The within Fence Exemption application is being filed out of an abundance of caution, in order to ensure this basketball screen may remain in place as needed at its current height, which height is necessary to ensure the safety of the surrounding properties. As part of their application, our client is prepared to ensure that the screen is taken down seasonally, when the sport court is not in use.

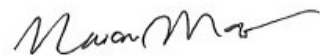
We note that upon the filing of the within application, our client is permitted to maintain the basketball screen in place until a decision regarding the application is made by the Toronto & East York Community Council, pursuant to section 1.5(B)(5) of the Fence Bylaw.

Please accept the enclosed materials as part of the within application for a Fence Exemption, including the following:

1. A completed application form;
2. The Notice of Violation;
3. Site plan indicating location of the basketball screen;
4. Photographs of the basketball screen;
5. A copy of the objection letter filed with the Committee of Adjustment on July 26, 2018 by the owners of 189 Dunvegan Road;
6. Letters of support from adjacent property owners; and
7. The required application fee (cheque for \$200.00).

Should you have any questions or require any further information, please do not hesitate to contact the undersigned.

Yours truly,



Naomi Mares  
Associate

NM/nh

48895085.1



Committee of Adjustments

100 Queen St. W.,

1<sup>st</sup> Fl W

Toronto ON M5H 2N2

Attention: Kim Stemshorn

**RECEIVED**

*By Committee of Adjustment at 4:49 pm, Jul 26, 2018*

Re: File No AO153/18TEY

191 Dunvegan Rd.

Dear Ms.Stemshorn,

We are the owners of 189 Dunvegan Rd and have lived here since 1990. The proposed plans for 191 Dunvegan will interfere with our privacy, the enjoyment of our property and will dwarf our property. The plan is to build a dwelling that will have a gross floor space of .596 times the area of the lot when only .35 is allowed PLUS they are building a large cabana and a large shed. This is not a minor variance.

We object to the following:

1. The removal of the 3 Norway Maple trees ( trees #8, 9 and 10) along the fence between our properties and injury to Tree #11 which is on our property. The 3 Norway Maples-8, 9, and 10- were planted because of a Committee of Adjustment decision on August 31, 2001 and the site plan attached to the decision. The site plan provided for the planting of 10 malus baccata trees 60 mm cal, 3 ft on centre, to be planted alongside the garage and to the back of the property along the fence between our properties. The owners of 191 Dunvegan, our former neighbours, did not comply with the agreement to plant these trees, so a law suit was commenced which resulted in Minutes of Settlement. The Minutes of Settlement provided for planting 10 10foot white cedars between the garage and the fence and 3 columnar maples ie Norway Maples to be planted behind the garage along the fence. These are the 3 Norway Maples that the current owner wishes to remove.



We want the 3 Norway Maples to remain plus a line of trees planted along the fence to BLOCK OUR VIEW OF THE LARGE CABANA which is proposed .The proposed cabana will be 4 mm-13.1234 feet- high with a floor space of 71.3 m. (only 60 m is allowed). Our lot is MORE THAN TWO and a half feet LOWER than their property so their cabana would even appear taller than 13.1234 feet. The proposed cabana has windows facing our property. The cabana would face the area where we have our swimming pool. There is no room on our side of the fence to plant trees to block our view of the cabana.

The 3 Norway Maples are healthy and should not be removed. The tree on our property-#11-should not be injured. We have a woodland feel in the area surrounding our swimming pool. The Urban Forestry Committee has said these trees are healthy and denied the removal of tree #8.

2. The proposed cabana is too large- like a little house-71.3 m floor space and 4m high. The windows facing east towards our property will intrude on our privacy. The cabana is set back only 1.68 m from our property as opposed to 3m.
3. We object to the height of the shed which is 3.89 metre-12.76 feet- and is .3 m set back from our property as opposed to the allowed 3 m set back. Our property is lower than theirs and the shed will appear higher. We suggest that the shed be not more than 8 feet high. Also the shed is too close to our property-.3 m- and should be set back further from our property with the planting of cedars between the shed and the fence to hide the view of the shed.
4. The neighbours plan to have a basketball hoop facing east adjacent to our property. We have a perennial garden along the fence that will be damaged when balls keep coming over the fence into our yard. This was a constant occurrence with a previous owner who had a basketball hoop adjacent to

the fence. We suggest that they place their hoop westward towards their own property.

5. The extension of the proposed dwelling exceeds a depth of 17 m and is set back 2.72 m from our property as opposed to 7.5 m. There are windows on this new extension facing east towards our property. We object to these windows on the grounds of interfering with our privacy.

In summary, we object to requested variances of chapters set out in 1, 2, 4, 5, and in set out in sections 1, 2, 8, and 9.

Please be advised that we were never served with the Public Hearing Notice and only obtained it online on July 23 after I received from 191's architect their proposed plan last week. We may require an adjournment.

Yours very truly,  
Norm and Elaine Freedman



