

Encroachment Agreement - Basement Walkout Appeal – 100 Armstrong Avenue

Date: March 13, 2024

To: Toronto and East York Community Council

From: Director, Permits and Enforcement, Transportation Services

Wards: Ward 9, Davenport

SUMMARY

This staff report is about a matter that Community Council has delegated authority from City Council to make a final decision.

Transportation Services has reviewed an application to maintain an encroachment within the public right-of-way at 100 Armstrong Avenue. The encroachment consists of a basement walkout within the municipal boulevard of the Armstrong Avenue frontage of the property.

The purpose of this report is to request authority to enter into an encroachment agreement with the property owner of 100 Armstrong Avenue to permit the basement walkout and its ongoing maintenance within the City's right-of-way on Armstrong Avenue.

RECOMMENDATIONS

The Director, Permits and Enforcement, Transportation Services recommends that:

1. Toronto and East York Community Council authorize the City to enter into an encroachment agreement (the "Agreement") with the owner of 100 Armstrong Avenue (the "Owner") for the purpose of permitting the owner to maintain a basement walkout fronting 100 Armstrong Avenue subject, but not limited to, the following conditions:
 - a. The property owner shall indemnify the City from and against all actions, suits, claims or demands and from all loss, costs, damages, and expenses that may result from such permission granted;
 - b. Maintain the basement walkout at their own expense in good repair and a condition satisfactory to the General Manager of Transportation Services and will not make any additions or modifications to the encroachment beyond what is allowed under the terms of the Agreement;

- c. Accept such additional conditions as the City Solicitor or the General Manager of Transportation Services may deem necessary in the interest of the City;
- d. Remove the retaining wall upon receiving written notice to do so; and
- e. The owner will enter into an encroachment agreement with the City of Toronto, at the owner's expense, and assume all liability and damages related to the encroachments.

2. Toronto and East York Community Council authorize the General Manager Transportation Services, to negotiate, enter into and execute the encroachment agreement with the owner of 100 Armstrong Avenue as described in recommendation 1.

FINANCIAL IMPACT

There is no financial impact resulting from the adoption of the recommendations in this report, as the property owner will be responsible for all associated costs of maintaining the encroachment.

DECISION HISTORY

This report addresses a new issue.

COMMENTS

An encroachment application was received from the owner of 100 Armstrong Avenue requesting permission to maintain an existing basement walkout within the public right-of-way fronting the premises. Drawings of the basement walkout are shown in Attachments 1-3, and a photo of the basement walkout is shown in Attachment 4.

The proposed basement walkout ranges from a depth of 2.21 metres below grade, including footings, to a height of 1.07 metres above grade with steel railings, fronting the subject property on Armstrong Avenue.

Transportation Services has reviewed the application and the property located at 100 Armstrong Avenue. The existing encroachment has deficiencies that contravene Municipal Code Chapter 743. The deficiencies include the following:

Under Code Chapter 743, the General Manager of Transportation Services does not have authority to enter into encroachment agreements for basement walkouts with a depth greater than 1.20 metres, or with railings higher than 0.90 metres, measured from the surface of the adjoining boulevard. As the proposed depth of the basement walkout exceeds maximum allowable depth and proposed railings exceed the maximum allowable height, Community Council approval is required. An encroachment agreement between the City and the property owner will set out the property owner's responsibilities for the maintenance, repair and operation of the basement walkout.

Transportation Services has reviewed the application and determined the existing basement walkout fronting 100 Armstrong Avenue will not have a negative impact on the public right-of-way. Therefore, Transportation Services recommends the City enter into an encroachment agreement with the property owner to permit the basement walkout encroachment within the City's right of way.

The Ward Councillor has been advised of the recommendations in this report.

CONTACT

Elio Capizzano, Manager, Permits and Enforcement, Construction Activity -
Transportation Services, 416-392-7878, Elio.Capizzano@toronto.ca

SIGNATURE

Antonia Markos
Director, Permits and Enforcement, Transportation Services

ATTACHMENTS

Attachment 1: Site Plan Drawing No. AS, dated November 13, 2020
Attachment 2: Section Drawing No. A7, dated November 13, 2020
Attachment 3: Surveyor's Real Property Report, dated April 6, 2021
Attachment 4: Photo of 100 Armstrong Avenue, taken February 19, 2024

Attachment 1: Site Plan Drawing - 100 Armstrong Avenue

SITE PLAN DRAWN FROM PART OF LOT 21 PLAN 604 METROPOLITAN TORONTO

LOT AREA = 157.08m²

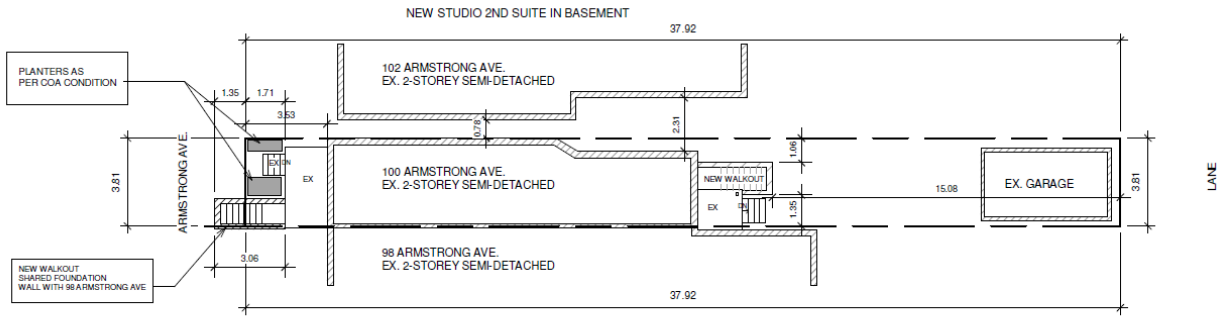
NEW 2ND SUITE BASEMENT = 58.6m²

LEVEL 1 = 58.6m²

LEVEL 2 = 59.45m²

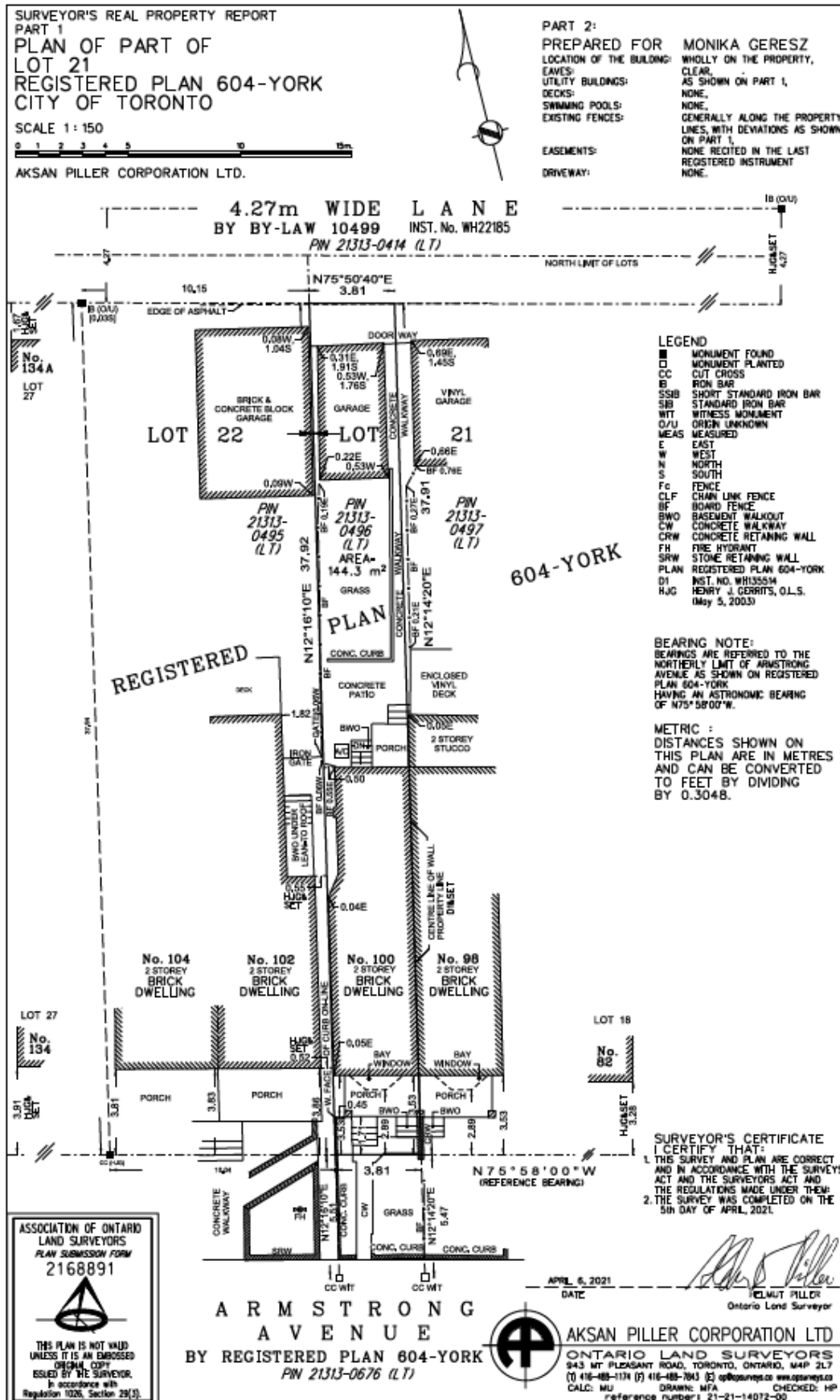
INTERIOR ALTERATIONS LEVEL 1 AND LEVEL 2 = 118m²

EXISTING BASEMENT IS FINISHED BUT 58.6m² WILL BE ALTERED DUE TO 39 LINEAR METERS OF UNDERPIN



1 SITE PLAN
1 : 150

Attachment 3: Surveyor's Real Property Report - 100 Armstrong Avenue



Attachment 4: Photo of 100 Armstrong Avenue

