

Encroachment Appeal - 135 Glen Road

Date: February 1, 2024

To: Toronto and East York Community Council

From: Director, Permits and Enforcement, Transportation Services

Wards: Ward 11, University-Rosedale

SUMMARY

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

The purpose of this report is for Toronto and East York Community Council to consider an appeal from the property owner of 135 Glen Road regarding their encroachment application. The encroachment consists of concrete and metal iron fences, and stone/concrete/brick privacy walls and pillars which is in contravention of City of Toronto Municipal Code Chapter 743, Streets and Sidewalks, Use Of.

The property owner is seeking approval from Toronto and East York Community Council to allow concrete and metal iron fences, and stone/concrete/brick privacy walls and pillars to be constructed and maintained within the public right-of-way at 135 Glen Road, which is in contravention of Toronto Municipal Code Chapter 743, Streets and Sidewalks, Use Of.

RECOMMENDATIONS

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

1. Toronto and East York Community Council not authorize the City to enter into an encroachment agreement with the owners of 135 Glen Road permitting the construction and maintenance of concrete and metal iron fences, and stone/concrete/brick privacy walls and pillars as it contravenes City of Toronto Municipal Code Chapter 743, Streets and Sidewalks, Use Of.

FINANCIAL IMPACT

There are no financial impacts resulting from the adoption of the recommendations in this report.

DECISION HISTORY

This report addresses a new initiative.

COMMENTS

An encroachment application was received on July 17, 2023, from the owners of 135 Glen Road requesting permission to construct and maintain concrete and metal iron fences, and stone/concrete/brick privacy walls and pillars within the public right-of-way surrounding the property along the Glen Road frontage and the Whitney Ave flank at the subject premises.

Transportation Services has reviewed the application and the property located at 135 Glen Road. The proposed encroachments have deficiencies that contravene Code Chapter 743. The deficiencies include the following:

- The proposed concrete and metal iron fence will be built to a height of 2.0 metres which contravenes Municipal Code Chapter 743 article 743-34A.(2)(a) "A fence located within a street can be built to a maximum height of 1.20 metres for that portion of the fence fronting the property, and 1.80 metres for any fence located in the flankage of the property, provided that to ensure unobstructed driver and pedestrian sight lines"
- The proposed stone/concrete/brick privacy walls and pillars will be built to a height of 2.2 metres which contravenes the Municipal Code Chapter 743 article 743-34A.(2)(a)[1] requirement that "No solid screen fence, privacy fence, railing, bollard, arbour, pergola, ornamental or retaining wall located within 70 metres of the intersection of any two or more streets shall exceed a height of one metre, with the height measured from the surface of the intersecting road"
- The proposed stone/concrete/brick privacy walls and pillars will be built to a height of 2.2 metres which contravenes the Municipal Code Chapter 743 article 743-34A.(2)(a)[2] requirement that " No solid screen fence, privacy fence, railing, bollard, arbour, pergola, ornamental or retaining wall located within three metres of a driveway that is adjacent a sidewalk, or the travelled surface of any road without curbs, shall exceed a height of one metre, measured from the grade of the adjoining driveway".

The applicant was notified that the proposed concrete and metal iron fences, and stone/concrete/brick privacy walls and pillars are not eligible for an encroachment agreement and an appeal was subsequently received from the property owner.

As required by Section 743-48 of the Toronto Municipal Code, Transportation Services has responded to the appeal by preparing this report for Toronto and East York Community Council consideration and to provide the applicant with an opportunity to be heard.

A site plan of the proposed encroachment and photos of the property at 135 Glen Road are shown in Attachments 1-6.

Alternate Recommendations

If, despite the findings above, Toronto and East York Community Council decides to authorize the General Manager, Transportation Services to enter into an encroachment agreement with the property owner of 135 Glen Road permitting concrete and metal iron fences, and stone/concrete/brick privacy walls and pillars, it may approve the following:

1. Toronto and East York Community Council authorize the General Manager of Transportation Services to enter into an encroachment agreement with property owner of 135 Glen Road, to permit metal iron fences and stone/concrete pillars, subject to the following conditions:

- a. 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 metal iron fences and stone/concrete pillars 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 metal iron fences and stone/concrete pillars upon receiving written notice to do so;
- e. The property owner shall agree that the City and/or utility companies may remove the encroachments at any time in order to install or maintain services within the affected public right-of-way with no obligation to replace them;
- f. Obtain clearances and/or sign-offs from all affected utilities and satisfy all conditions imposed by any utilities that may be affected by the installation and maintenance of the metal iron fences and stone/concrete pillars;
- g. no spikes or pointed tops are permitted on the fence; and
- i. The property owner will enter into an encroachment agreement with the City of Toronto, at the applicant's expense, and assume all liability and damages related to the encroachments.

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

CONTACT

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SIGNATURE

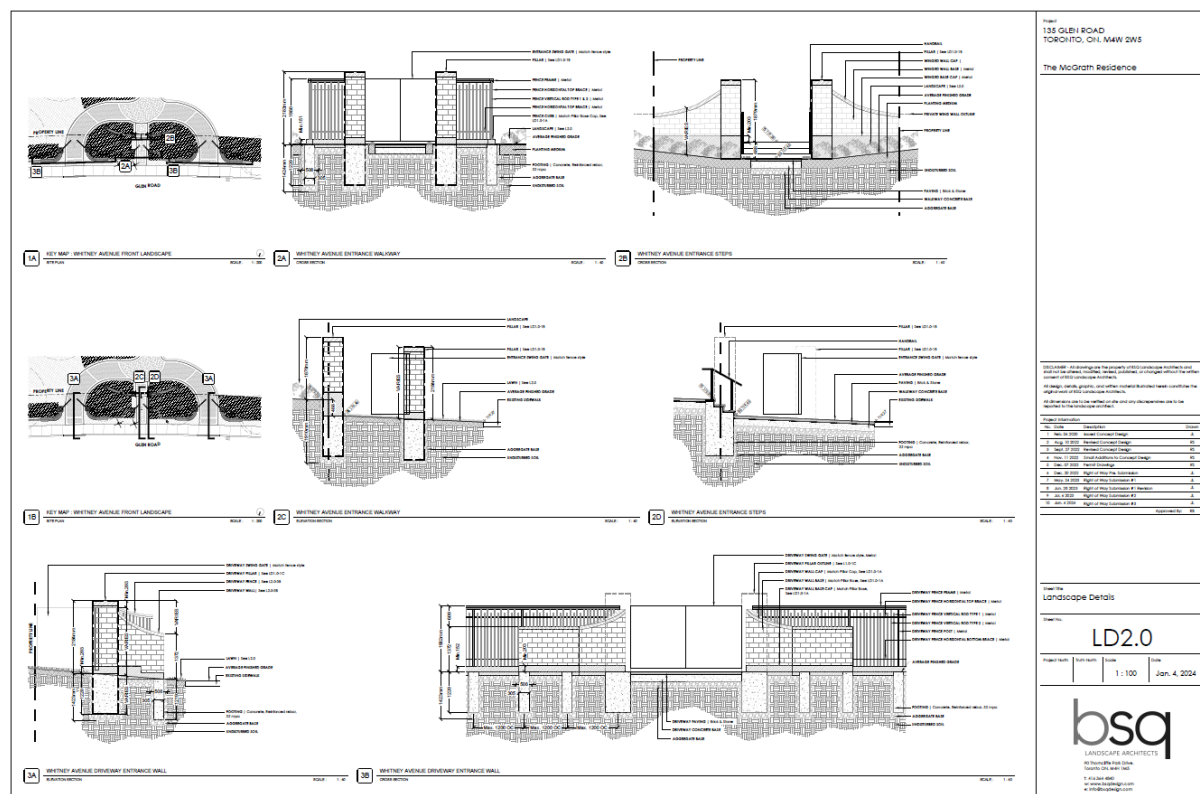
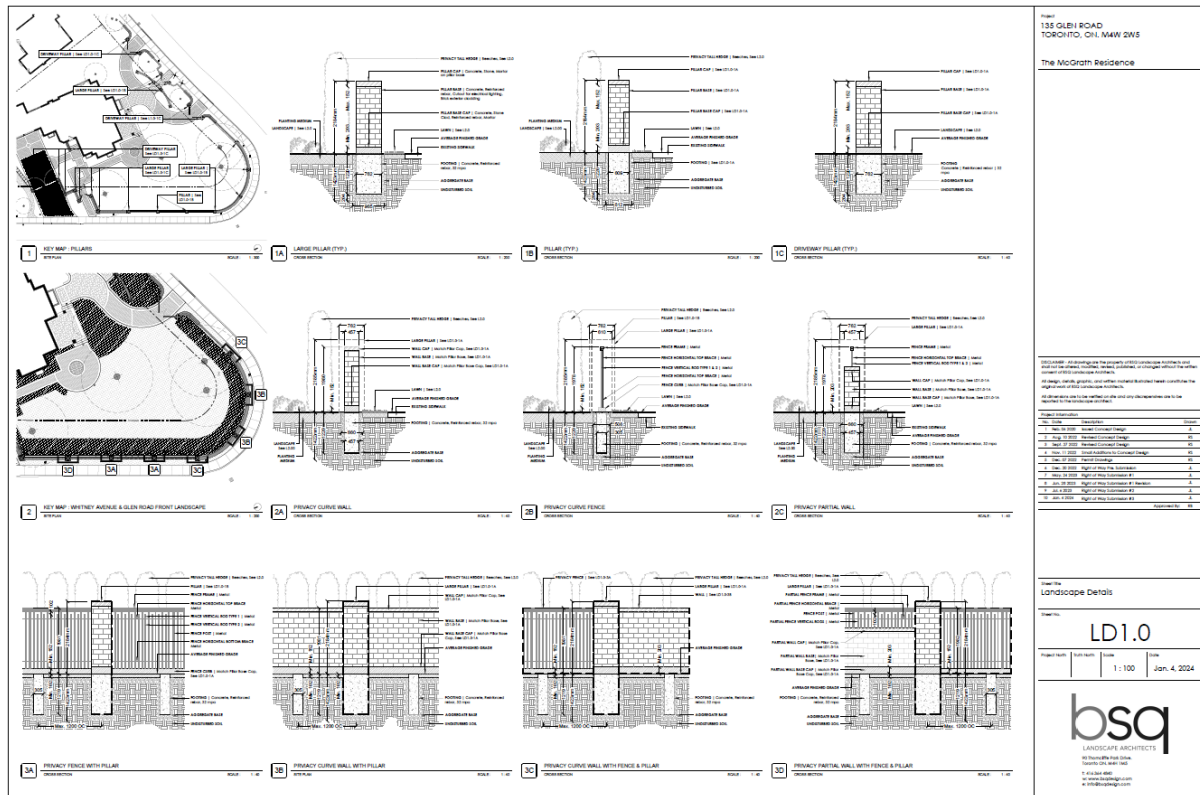
Antonia Markos
Director, Permits and Enforcement, Transportation Services

ATTACHMENTS

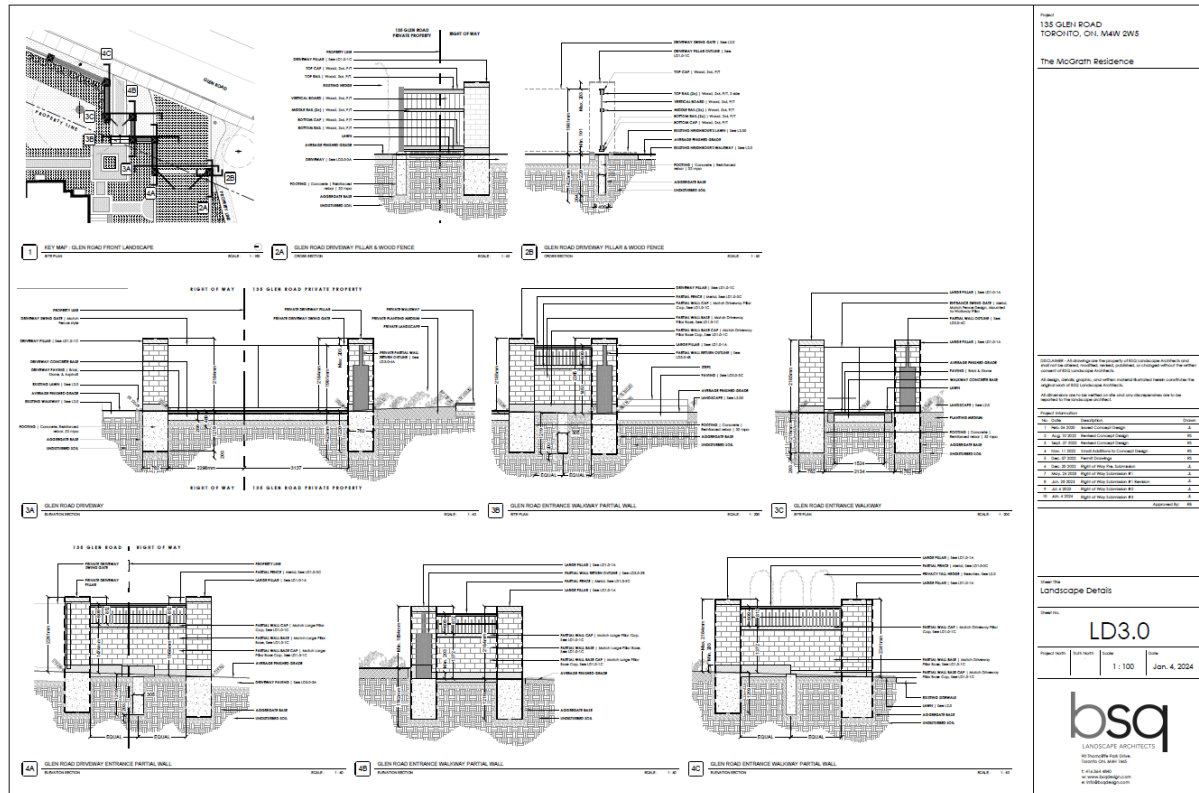
Attachment 1: Site Plan of Proposed Encroachment No.L2.0 - 135 Glen Road
Attachment 2: Grading & Layout Plan of Proposed Encroachment No.L3.0 - 135 Glen Road
Attachment 3: Landscape Details of Proposed Encroachment No.LD1.0- 135 Glen Road
Attachment 4: Landscape Details of Proposed Encroachment No.LD2.0- 135 Glen Road
Attachment 5: Landscape Details of Proposed Encroachment No.LD3.0- 135 Glen Road
Attachment 6: Photos of the property at 135 Glen Road

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No.	Description	Qty	Material	Location	Total Approximate Size (Length x Width) - sq'	Height/Depth (Minimum/Maximum) - ft	Notes
1.0	Drainage Entrance Fence	1	Concrete & Metal		6.6	0.5	2.0' x 12.0'
1.1	Hedge	4	Planting		4.0	1.0	4.0' x 1.0'
1.2	Drainage Entrance Wall	1	Concrete, Stone, Brick & Metal		5.7	0.5	2.0' x 12.0'
1.3	Drainage Entrance Wall	1	Concrete, Stone, Brick & Metal		6.8	0.5	2.0' x 12.0'
1.4	Drainage Entrance Gate	2	Metal		4.5	0.5	2.0' x 12.0'
1.5	Drainage Entrance Wall	1	Concrete, Stone, Brick & Metal		6.8	0.5	2.0' x 12.0'
1.6	Drainage Entrance Wall	1	Concrete, Stone, Brick & Metal		5.7	0.5	2.0' x 12.0'
2.0	Hedge	4	Planting		4.0	1.0	4.0' x 1.0'
2.1	Drainage Entrance Fence	1	Concrete, Stone, Brick & Metal		4.5	0.5	2.0' x 12.0'
2.2	Hedge	1	Concrete, Stone, Brick & Metal		5.5	1.0	5.5' x 1.0'
2.3	Upper Middle Gate	2	Concrete, Stone, Brick & Metal		1.2	0.5	2.0' x 12.0'
2.4	Entrance Gate	2	Metal		1.8	0.5	2.0' x 12.0'
2.5	Hedge	4	Planting		4.0	1.0	4.0' x 1.0'
2.6	Drainage Entrance Fence	1	Concrete, Stone, Brick & Metal		4.5	0.5	2.0' x 12.0'
3.0	Drainage Entrance Wall	1	Concrete, Stone, Brick & Metal		5.5	0.5	2.0' x 12.0'
3.1	Drainage Entrance Wall	1	Concrete, Stone, Brick & Metal		6.8	0.5	2.0' x 12.0'
3.2	Drainage Entrance Wall	1	Concrete, Stone, Brick & Metal		6.8	0.5	2.0' x 12.0'
4.0	Drainage Entrance Wall	1	Concrete, Stone, Brick & Metal		1.2	0.5	2.0' x 12.0'
4.1	Hedge	4	Planting		4.0	1.0	4.0' x 1.0'
4.2	Hedge	4	Planting		4.0	1.0	4.0' x 1.0'
4.3	Hedge	4	Planting		4.0	1.0	4.0' x 1.0'
4.4	Hedge	4	Planting		4.0	1.0	4.0' x 1.0'
4.5	Hedge	4	Planting		4.0	1.0	4.0' x 1.0'
4.6	Hedge	4	Planting		4.0	1.0	4.0' x 1.0'
4.7	Hedge	4	Planting		4.0	1.0	4.0' x 1.0'
4.8	Hedge	4	Planting		4.0	1.0	4.0' x 1.0'
4.9	Hedge	4	Planting		4.0	1.0	4.0' x 1.0'
4.10	Hedge	4	Planting		4.0	1.0	4.0' x 1.0'
4.11	Hedge	4	Planting		4.0	1.0	4.0' x 1.0'
4.12	Hedge	4	Planting		4.0	1.0	4.0' x 1.0'
4.13	Hedge	4	Planting		4.0	1.0	4.0' x 1.0'
4.14	Hedge	4	Planting		4.0	1.0	4.0' x 1.0'
4.15	Hedge	4	Planting		4.0	1.0	4.0' x 1.0'
4.16	Hedge	4	Planting		4.0	1.0	4.0' x 1.0'
4.17	Hedge	4	Planting		4.0	1.0	4.0' x 1.0'
4.18	Hedge	4	Planting		4.0	1.0	4.0' x 1.0'
4.19	Hedge	4	Planting		4.0	1.0	4.0' x 1.0'
4.20	Hedge	4	Planting		4.0	1.0	4.0' x 1.0'
4.21	Hedge	4	Planting		4.0	1.0	4.0' x 1.0'
4.22	Hedge	4	Planting		4.0	1.0	4.0' x 1.0'
4.23	Hedge	4	Planting		4.0	1.0	4.0' x 1.0'
4.24	Hedge	4	Planting		4.0	1.0	4.0' x 1.0'
4.25	Hedge	4	Planting		4.0	1.0	4.0' x 1.0'
4.26	Hedge	4	Planting		4.0	1.0	4.0' x 1.0'
4.27	Hedge	4	Planting		4.0	1.0	4.0' x 1.0'
4.28	Hedge	4	Planting		4.0	1.0	4.0' x 1.0'
4.29	Hedge	4	Planting		4.0	1.0	4.0' x 1.0'
4.30	Hedge	4	Planting		4.0	1.0	4.0' x 1.0'
4.31	Hedge	4	Planting		4.0	1.0	4.0' x 1.0'
4.							



Attachment 5: Landscape Details of Proposed Encroachment No.LD3.0- 135 Glen Road



Attachment 6: Photos of the property at 135 Glen Road - Existing metal fence to be removed - Glen Rd:



Whitney Ave - Existing metal fence to be removed:



Intersection of Glen Rd and Whitney Ave - Existing metal fence to be removed:



