

## **Supplementary Report - Encroachment Appeal 135 Glen Road**

**Date:** May 6, 2024

**To:** Toronto and East York Community Council

**From:** Director, Permits and Enforcement, Transportation Services

**Wards:** Ward 11, University-Rosedale

### **SUMMARY**

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

Further to item TE13.21, "Encroachment Appeal - 135 Glen Road" this report provides an update on the revised application received from BSQ Landscape Architects. The applicant has worked with Transportation Services staff to revise their proposal to improve vehicle and pedestrian sightlines by lowering the solid masonry walls to 1.0m with open metal picket fencing surrounding the Whitney Avenue driveway. The fence and walls surrounding the site have also been modified to provide a minimum 1.0m clearance from existing utility poles and sign posts and 0.50m from the rear edge of the sidewalk.

Transportation Services has reviewed the application to construct and install encroachments within the public right-of-way at 135 Glen Road. The encroachments consist of concrete and metal iron fences, automated gates, stone/concrete/brick privacy walls and pillars, and a beech tree privacy hedge which is in contravention of City of Toronto Municipal Code Chapter 743, Streets and Sidewalks, Use Of. Specifically, the concrete and metal iron fences, automated gates and stone/concrete/brick privacy walls, pillars and beech tree privacy hedge do not meet the height restrictions required for an encroachment of a fence structure.

Although the concrete and metal iron fences, automated gates, stone/concrete/brick privacy walls and pillars, and beech tree privacy hedge are in contravention of the requirements under Code Chapter 743, staff is of the opinion that it will not have a negative impact on the public right-of-way. Therefore, Transportation Services is requesting authority to enter into an encroachment agreement with the property owner(s), subject to conditions.

## RECOMMENDATIONS

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

1. Toronto and East York Community Council authorize the General Manager of Transportation Services to negotiate and enter into an encroachment agreement with property owner(s) of 135 Glen Road, to install and maintain concrete and metal iron fences, automated gates, stone/concrete/brick pillars, and a beech tree privacy hedge, subject to, but not limited 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 concrete and metal iron fences, automated gates, stone/concrete/brick pillars, and beech tree privacy hedge 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 concrete and metal iron fences, automated gates, stone/concrete/brick pillars, and beech tree privacy hedge upon receiving written notice to do so;
- e. 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;
- f. No spikes or pointed tops are permitted on the fence;
- g. automated gates to swing inwards and be powered from the property at 135 Glen Rd;
- h. Obtain clearance and/or sign off from the Electrical Safety Authority for the automated gates;
- i. Maintain a minimum 1.0 m clearance from existing utility poles and sign posts;
- j. Beech tree privacy hedge to maintain a 3.0 metre clearance from the edge of the driveway; and
- k. The property owner(s) will enter into an encroachment agreement with the City of Toronto, at the applicant's expense.

## FINANCIAL IMPACT

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

## DECISION HISTORY

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This report provides new comments and recommendations stemming from a revised design submitted by the applicant from the deferral of Item TE13.21 [Agenda Item History - 2024.TE13.21 \(toronto.ca\)](#)

## COMMENTS

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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, automated gates, stone/concrete/brick pillars, and a beech tree privacy hedge within the public right-of-way on Glen Road and Whitney Avenue surrounding 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 and automated gates will be built to a height of 2.1-2.3m metres and the beech tree privacy hedge will be maintained at a height of 6.1 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 will be built to a height of 2.1m-2.3m; the pillars will be built to a height of 2.7 metres; and the beech tree privacy hedge will be maintained at a height of 6.1 metres which contravenes 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 will be built to a height of 2.1m and the pillars will be built to a height of 2.7 metres which contravenes 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 the proposed concrete and metal iron fences, automated gates, stone/concrete/brick privacy walls and pillars, and beech tree privacy hedge are not eligible for an encroachment agreement and an appeal was subsequently received from the property owner.

Site plans, elevations and cross sections of the proposed encroachments are shown in Attachments 1-5 and photos of the existing condition of the property at 135 Glen Road are shown in Attachment 6.

Transportation Services has reviewed the application and staff is of the opinion that the concrete and metal iron fences, stone/concrete/brick privacy walls and pillars, and beech tree privacy hedge will not have a negative impact on the public right-of-way for pedestrians, for traffic on the affected streets, or the City's ability to properly maintain the right-of-way. Therefore, Transportation Services recommends that the City enter into an encroachment agreement with the property owner to allow the concrete and metal iron fences, stone/concrete/brick privacy walls and pillars, and beech tree privacy hedge to encroach within the City's right-of-way.

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

## **CONTACT**

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## **SIGNATURE**

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Antonia Markos  
Director, Permits and Enforcement, Transportation Services

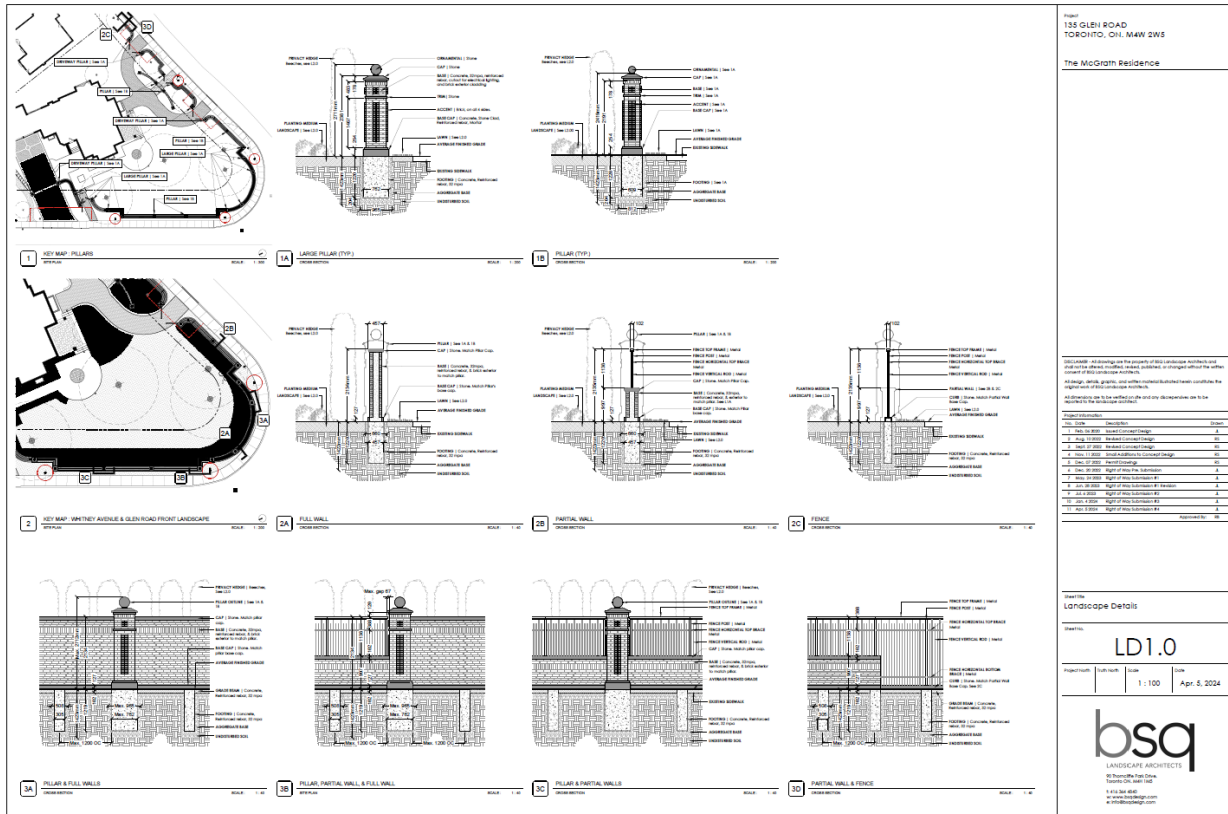
## **ATTACHMENTS**

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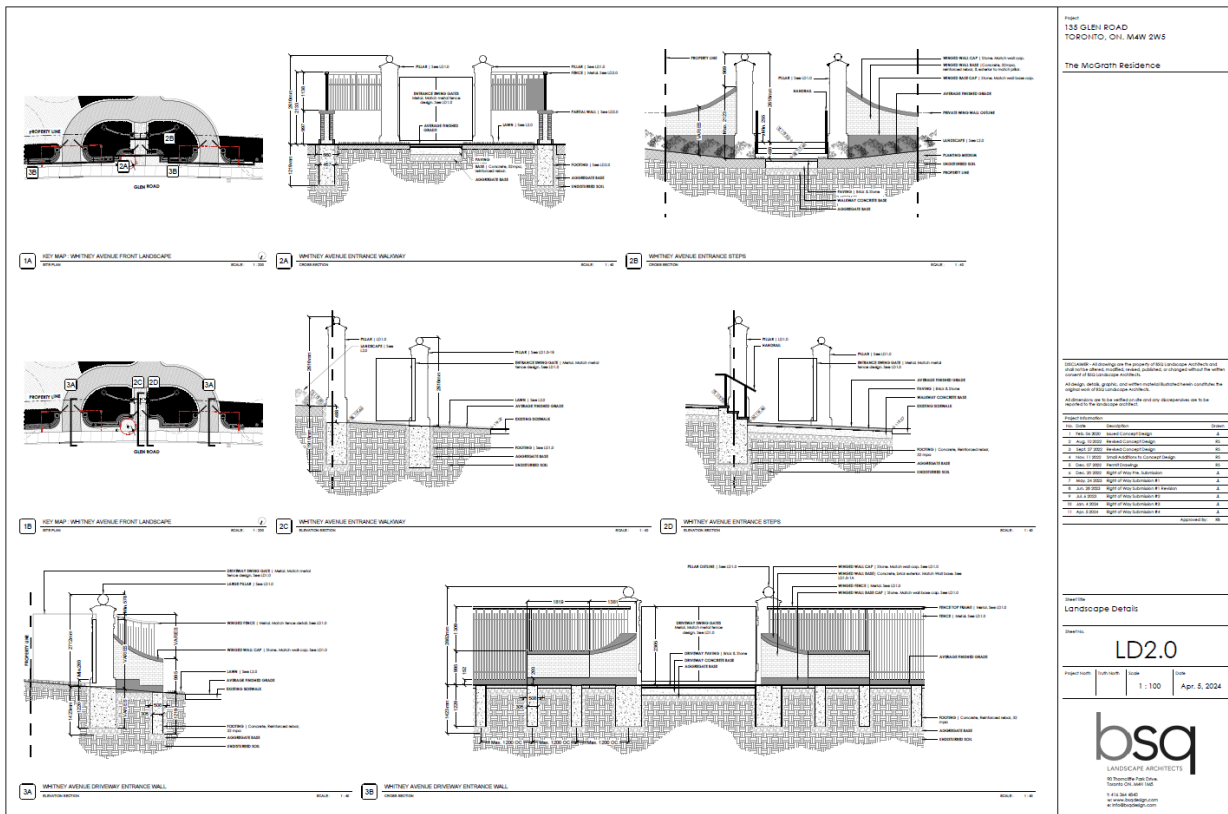
Attachment 1: Site Plan of Proposed Encroachment No. L2.0 - 135 Glen Road  
Attachment 2: Grading & Layout Plan of Proposed Encroachment No. L3.0 - 135 Glen Road  
Attachment 3: Landscape Details of Proposed Encroachment No. LD1.0- 135 Glen Road  
Attachment 4: Landscape Details of Proposed Encroachment 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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## Attachment 3: Landscape Details of Proposed Encroachment No.LD1.0- 135 Glen Road

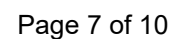


## Attachment 4: Landscape Details of Proposed Encroachment No.LD2.0- 135 Glen Road





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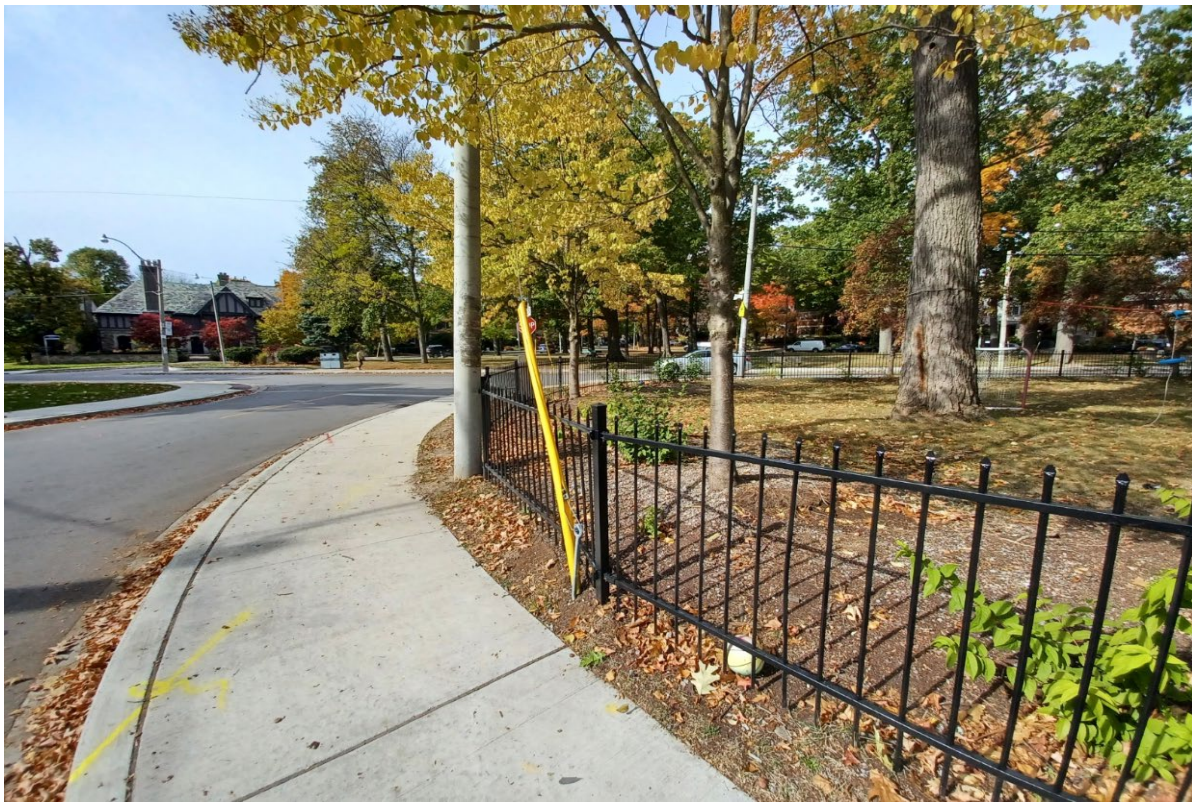


Attachment 6: Photos of the property at 135 Glen Road - Existing metal fence to be removed, Glen Rd:





Existing metal fence to be removed, Whitney Ave:





Existing metal fence to be removed, intersection of Glen Rd and Whitney Ave:

