

16 Afton Avenue - Encroachment Appeal – Various Encroachments

Date: April 10, 2026

To: Toronto and East York Community Council

From: Acting Director, Street Permits, 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.

The purpose of this report is for Toronto and East York Community Council to consider an appeal from the property owner of 16 Afton Avenue regarding their encroachment application. The encroachment consists of an existing wooden privacy fence, a decorative metal archway over the fence gate, gabion walls, and a vehicle access door, which do not comply with City of Toronto Municipal Code Chapter 743, Streets and Sidewalks, Use Of.

The property owner is seeking authorization from the Toronto and East York Community Council to allow the continued maintenance of the encroachment within the public right-of-way at 16 Afton Avenue. Transportation Services does not recommend that authority be granted.

RECOMMENDATIONS

The Acting Director, Street Permits, Transportation Services recommends that:

1. Toronto and East York Community Council not authorize the City to enter into an encroachment agreement with the owner of 16 Afton Avenue permitting the wooden privacy fence, ranging from approximately 1.2 to 2.25 metres in height, the decorative metal archway that is 2.3 metres in height, gabion walls ranging from 1.41 to 2.25 metres in height, and the vehicle access door that is approximately 2.71 metres in height.

2. Toronto and East York Community Council require the owner of 16 Afton Avenue to remove the encroachment to the satisfaction of the General Manager of Transportation Services.

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 January 1, 2024, from the owner of 16 Afton Avenue seeking permission to maintain existing structures within the public right-of-way. These include a wooden privacy fence measuring 1.2 metres in height along Afton Avenue and between 1.2 to 2.25 metres in height along the Lisgar Street flankage, a decorative metal archway that is 2.3 metres in height, gabion walls ranging from 1.41 to 2.25 metres in height, and a vehicle access door, approximately 2.71 metres in height, all located along the Lisgar Street flankage, (collectively, the “encroachment”).

The applicant was advised that the encroachment is not eligible for an encroachment agreement as it contravenes the City of Toronto Municipal Code Chapter 743, Streets and Sidewalks, Use Of (“Chapter 743”), due to a lack of authorization and non-compliance with height and setback requirements. An appeal was subsequently submitted by the property owner.

Transportation Services reviewed the encroachment application for the property at 16 Afton Avenue. The proposed encroachment does not comply with the provisions of Chapter 743 and are further detailed below:

- The vehicle access door is not a permitted type of encroachment and does not fall within the categories that the General Manager of Transportation Services is authorized to permit under Chapter 743.
- The wooden privacy fence ranges from 1.2 to 2.25 metres in height with decorative metal archway that is 2.3 metres in height located over the fence gate, and the vehicle access door measures approximately 2.71 metres in height. An additional fencing element consists of wire mesh and stone gabion walls that measure 1.41 to 2.25 metres in height. Collectively, these installations contravene Chapter 743,

Section 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 existing wooden privacy fence, decorative metal archway, and gabion walls vary in height from 1.2 to 2.3 metres, and the associated vehicle access door is approximately 2.71 metres in height. These installations do not comply with Chapter 743, Section 743-34A.(2)(a)[1] requirement that states 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 existing wooden privacy fence and vehicle access door exceed the maximum permitted height of 1.0 metre within the required 3.0 metre distance on the either side of the vehicle access point at 16 Afton Avenue and 220 Lisgar Street, along the Lisgar Street flankage. This condition does not comply with Chapter 743, Section 743-34A.(2)(a)[2], which states 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."

Transportation Services has completed its review and determined that the proposed fence creates a sightline obstruction at both the subject property's driveway and the adjacent property at 220 Lisgar Street. The fence and vehicle access door do not achieve the minimum 3.0 metre setback required under Chapter 743, resulting in reduced visibility for both vehicles and pedestrians. Staff also note that the height and dimensions of the fence and vehicle access door exceed what is typically permitted for structures within the public right-of-way.

The sightline issue can be mitigated by introducing a vision splay and reducing the height of the wooden fence to a maximum of 1.0 metre within the setback areas. Specifically, a 3.0-metre by 4.0-metre vision splay is required from the northeast corner of the property on Lisgar Street, extending 3.0 metres west and 4.0 metres south from the southern edge of the vehicle access door. Within this area, the fence at 16 Afton Avenue must be lowered to no more than 1.0 metre in height to maintain adequate sightlines. In its current configuration, the fence obstructs visibility for pedestrians on the sidewalk, vehicles exiting the driveways at 16 Afton Avenue and 220 Lisgar Street, and motorists travelling southbound on Lisgar Street. As such, this condition presents a safety concern and does not meet the required sightline standards for vehicle access points.

Accordingly, Transportation Services does not recommend that Toronto and East York Community Council authorize the encroachment appeal and instead recommends that the fence be removed or modified to comply with the requirements.

Alternate Recommendations

If, despite the findings above, Toronto and East York Community Council decide to authorize the General Manager, Transportation Services to enter into an encroachment agreement with the property owner of 16 Afton Avenue permitting the existing encroachment, it may adopt 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 16 Afton Avenue to permit the continued maintenance of the existing wooden privacy fence, that includes a 1.2 metre high section along Afton Avenue and 1.2 to 2.25 metre high section along the Lisgar Street flankage, the decorative metal archway that is 2.3 metres in height, the gabion walls ranging from 1.41 to 2.25 metres in height, and the vehicle access door, approximately 2.71 metres in height, all located on the Lisgar Street flankage, located within the public right-of-way, subject to but not limited to the following conditions:
 - a. The property owner will indemnify the City of Toronto 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. The property owner will maintain the encroachment 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. The property owner will 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. The property owner will remove the encroachment upon receiving written notice from Transportation Services to do so;
 - e. 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 encroachment;
 - f. The property owner shall provide a minimum 4.0 metre vision splay on the south side of the vehicle access door and 3.0 metre vision splay on the north side of the vehicle access door. Within these areas, the fence height shall be reduced to a maximum of 1.0 metre to mitigate sightline concerns at the driveways for both 16 Afton Avenue and 220 Lisgar Street;
 - g. No spikes or pointed tops are permitted on the encroachment;

h. The automated vehicle access door shall be required to operate using an upward-opening mechanism and shall be powered exclusively from the property at 16 Afton Avenue; and

i. The applicant shall obtain clearance and/or formal signoff from the Electrical Safety Authority confirming that the automated vehicle access door complies with all applicable electrical safety requirements.

As required under 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's consideration and to provide the applicant with an opportunity to be heard.

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

Sketches and photos of the existing encroachment are shown in Attachments 1 to 5.

CONTACT

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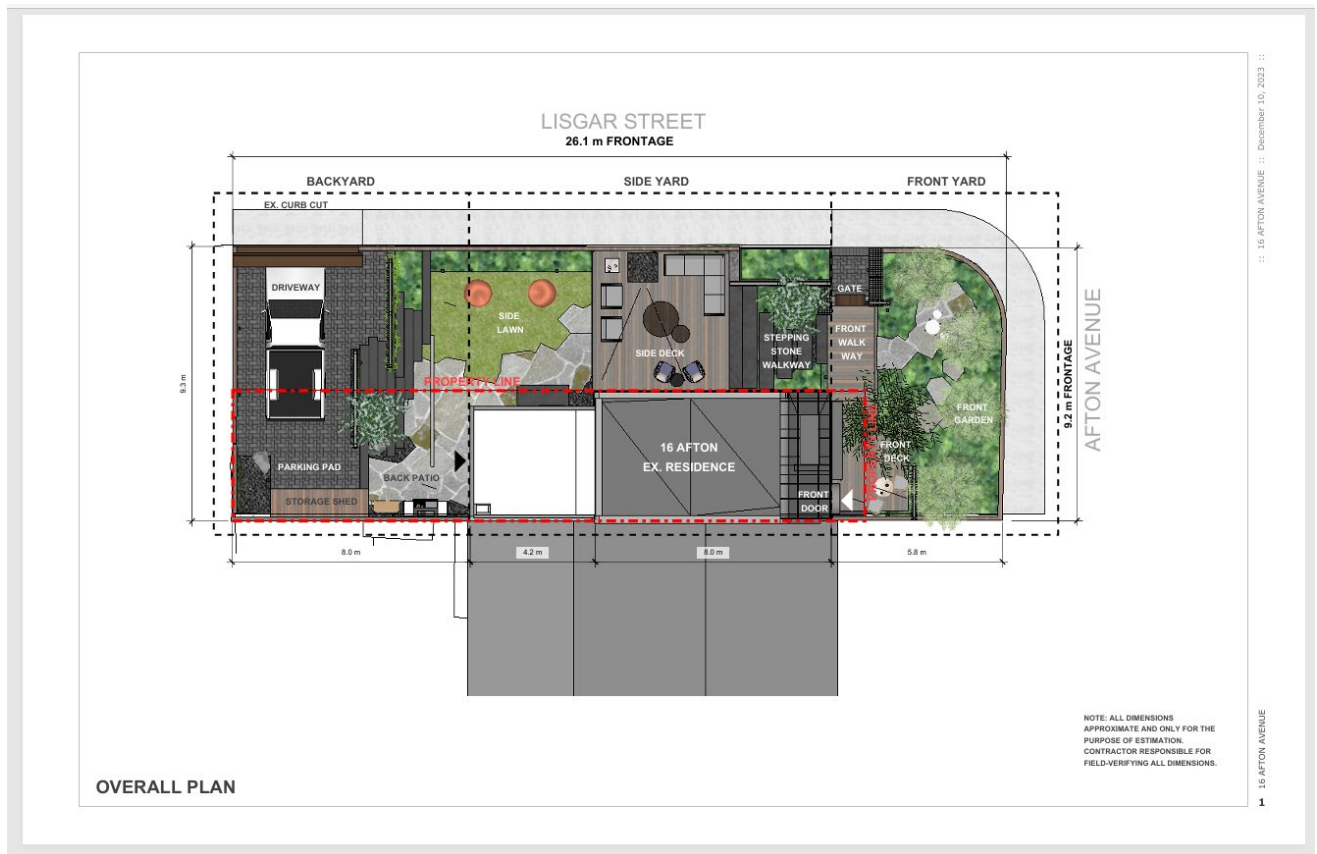
SIGNATURE

Nazzareno A. Capano, P.Eng.
Acting Director, Street Permits, Transportation Services

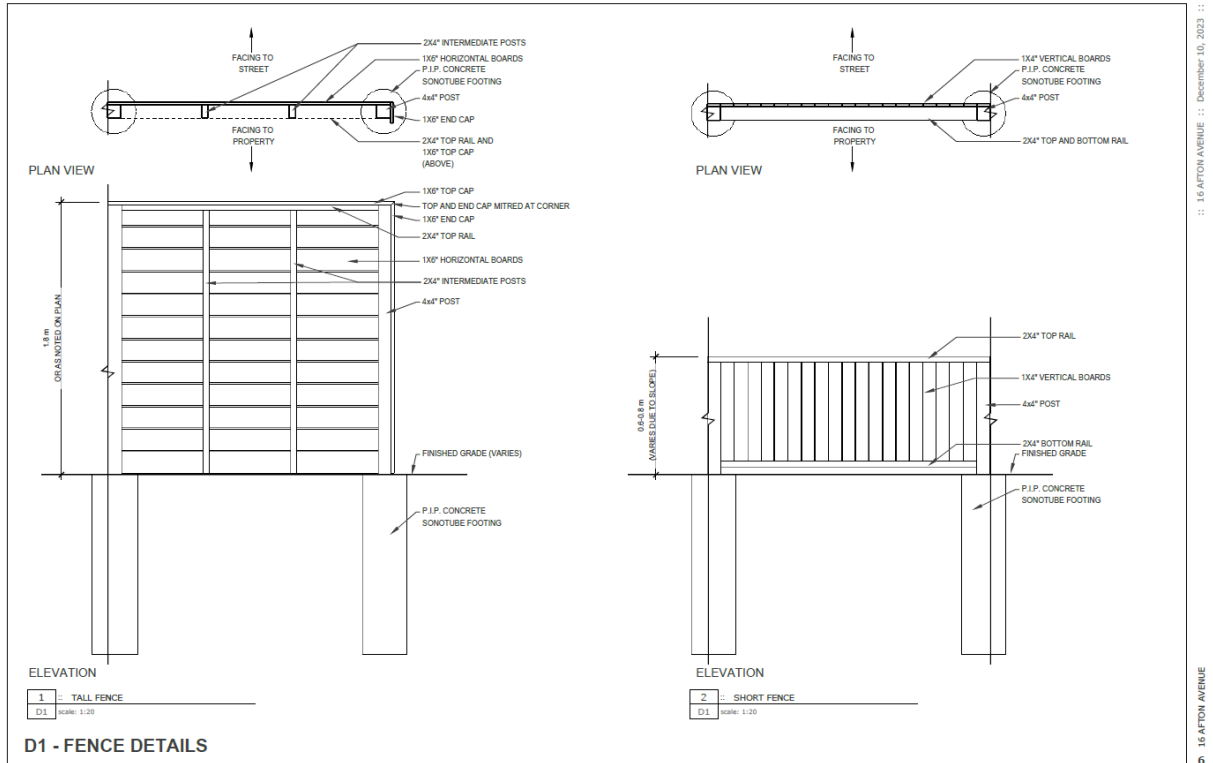
ATTACHMENTS

Attachment 1: Site Plan - 16 Afton Avenue
Attachment 2: D1-Fence Details - 16 Afton Avenue
Attachment 3: D2-Landscape Details - 16 Afton Avenue
Attachment 4: D3- Gate Details - 16 Afton Avenue
Attachment 5: Photos of Existing Condition - 16 Afton Avenue

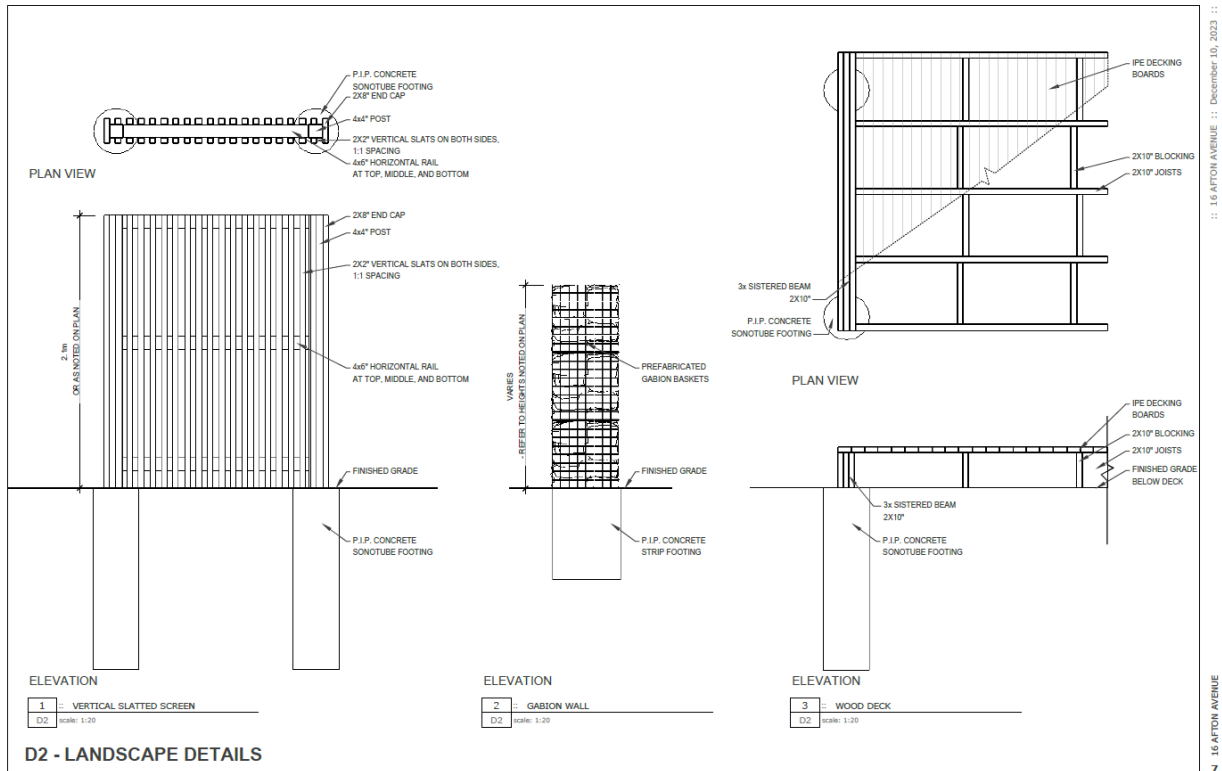
Attachment 1: Site Plan - 16 Afton Avenue



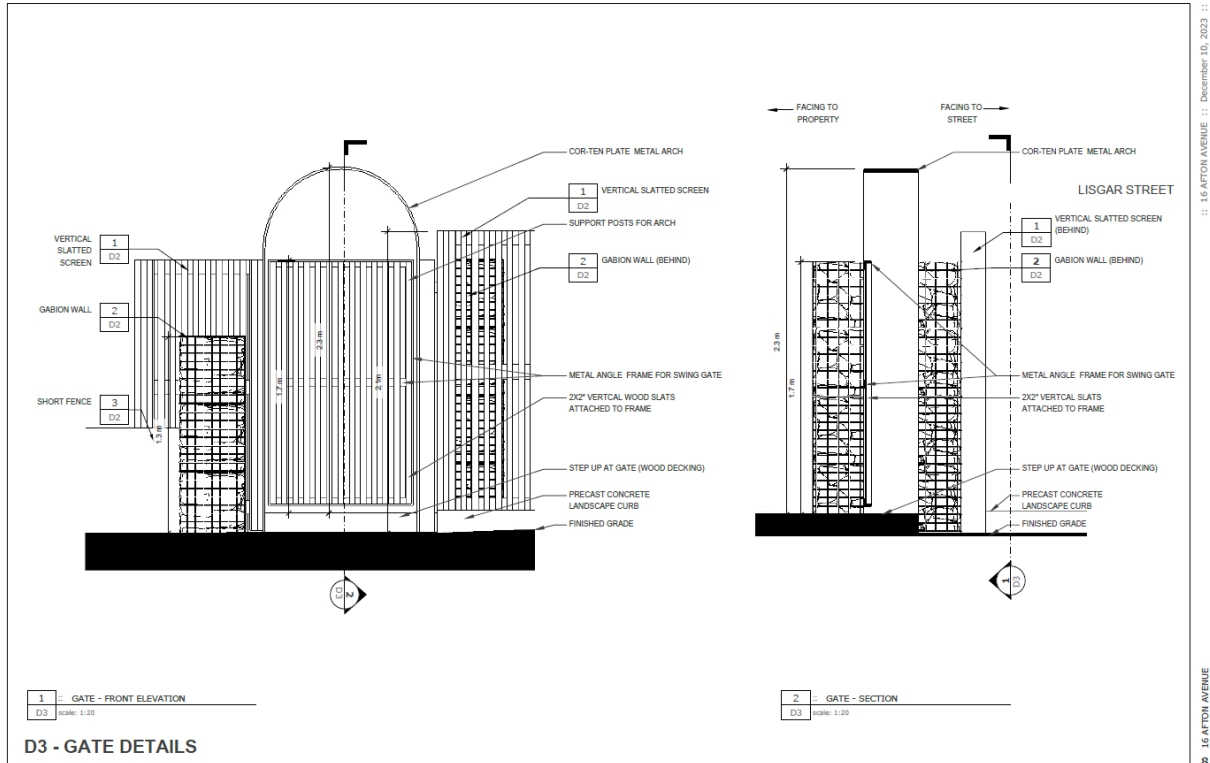
Attachment 2: D1-Fence Details - 16 Afton Avenue



Attachment 3: D2-Landscape Details - 16 Afton Avenue

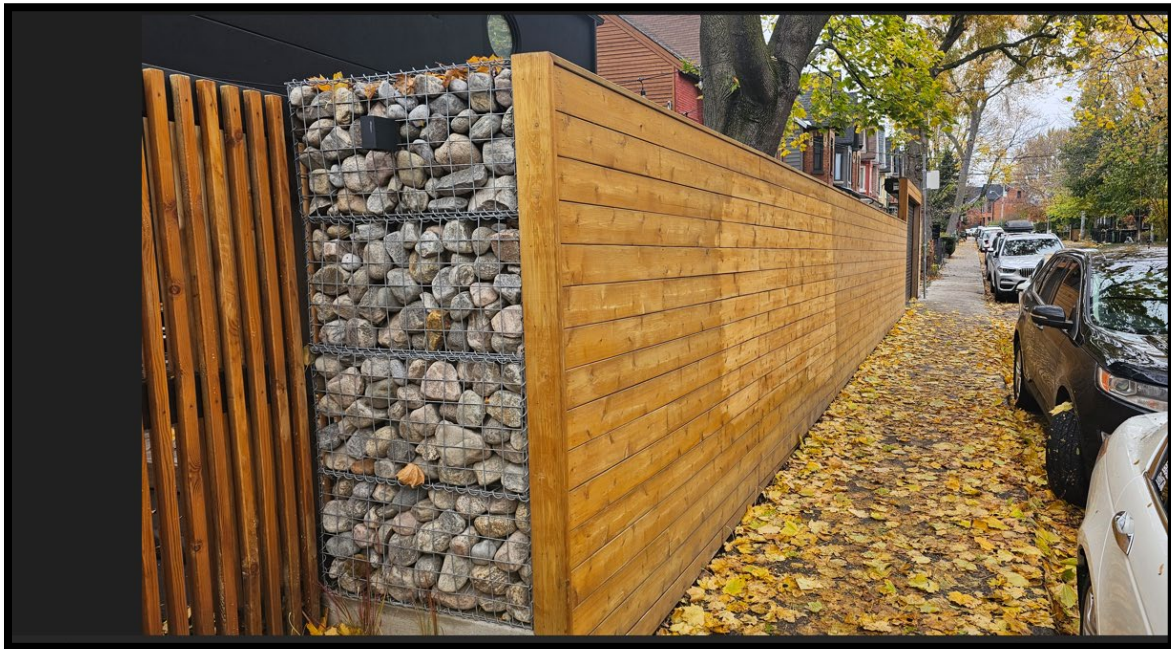


16 Afton Avenue - Encroachment Appeal



Attachment 5: Photos of Existing Condition - 16 Afton Avenue

South elevation of 16 Afton Avenue (Lisgar Street flank).



Looking north along Lisgar Street



Looking northwest at 16 Afton Avenue