

COMMITTEE OF THE WHOLE - MAY 5, 2008

FENCE HEIGHT EXEMPTION – 99 DAVIDSON DRIVE – WARD 2

Recommendation

The Commissioner of Legal & Administrative Services and City Solicitor and the Director of Enforcement Services recommends:

1. That a fence height exemption for the rear yard wrought iron fence and gate for 99 Davidson Drive be approved; and
2. That the fence height exemption for the interior side yards and the front yard be denied.

Economic Impact

N/A

Communications Plan

Notification/Request for Comment letters were sent to surrounding neighbours within a 60 metre radius, 1 objection letter and 1 conditional objection letter have been received.

Purpose

This report is to provide information for the consideration of a fence height exemption application.

Background - Analysis and Options

The property owner of 99 Davidson Drive has applied for a fence height exemption as provided for in the City of Vaughan Fence By-law 80-90, for the property located at 99 Davidson Drive.

The Applicant is making application to permit an existing rear yard fence.

The By-law permits a fence height of six (6) feet in rear yards and four (4) feet in front yards. The Applicant has installed a fence along the rear and interior side yards in order to provide a feeling of privacy.

The Applicant has constructed and installed a combination wooden and iron fence in the interior side and front yards and a wrought iron fence along the rear property line with heights ranging from 5' 9" to 14' 6". The east side of the property has a fence consisting of a gate and 3 panels which are attached to an existing raised deck. The deck was constructed without a permit and does not comply to the Zoning By-law 1-88 with respect to setbacks. The Applicant made application for a minor variance (File # A048-08), which was heard on February 28, 2008 and subsequently adjourned pending the outcome of a fence height exemption. The grade of the property has been raised at least 4 feet.

Interior Side Yard – East Side

Measurements from the east side of the property between 99 Davidson Drive and 91 Davidson Drive are as follows:

- decorative piece above gate: 8' 8" measured from finished grade;
- fence panels vary between 10' 6" to 13' 8 ½" in height;

- there are 4 free standing metal posts with no panels attached along the interior side yard.

The By-law permits a maximum height of six (6) feet.

Interior Side Yard – West Side

The fence extends to the interior front yard on the west side of 99 Davidson Drive and measures 7' 8". The By-law permits a maximum height of four (4) feet in front yards.

Measurements of the gate and fence in the interior side yard on the west side between 99 Davidson Drive and 107 Davidson Drive are as follows:

- fence panels vary between 6' 9" to 14' 6" in height;
- the gate measures 7' 10" from grade to the top of the gate.

Exterior Rear Yard

The south side rear yard fence which backs onto Wakelin Court is constructed of wrought iron and one gate. Height measurements range from 6' 7" to 7' 10".

The area was inspected by Enforcement staff and there are no fences in the area similar in height and design as the applicant's.

There are no site plans registered for this property.

The fence height does not pose a potential sight line issue as it is located in the rear yard.

The details outlined above supports the approval of a fence height exemption for this location with respect to the rear yard wrought iron fence only. It does not support the approval of an interior side or front yard fence for this location and there is no precedent for approving a fence of this height in this area.

This application is outside of the parameters of the delegated authority recently passed by Council.

Relationship to Vaughan Vision 2007

This report is in keeping with the Vaughan Vision as it speaks to Service Delivery and Community Safety.

Regional Implications

N/A

Conclusion

Fence Height Exemption requests brought before Council should be granted or denied based on the potential impact to neighbour relations, comparables in the specific area, site plan requirements, history, and safety impacts. This supports the approval of a fence height exemption for this location with respect to the rear yard wrought iron fence and gate only. It does not support the approval for a fence height exemption with respect to the interior side or front yard fence.

Attachments

- 1) Area Map of Surrounding Streets
- 2) Site Plan
- 3) Committee of Adjustment Minutes
- 4) Photographs
- 5) Letter of Objection
- 6) Conditional Letter of Objection

Report prepared by:

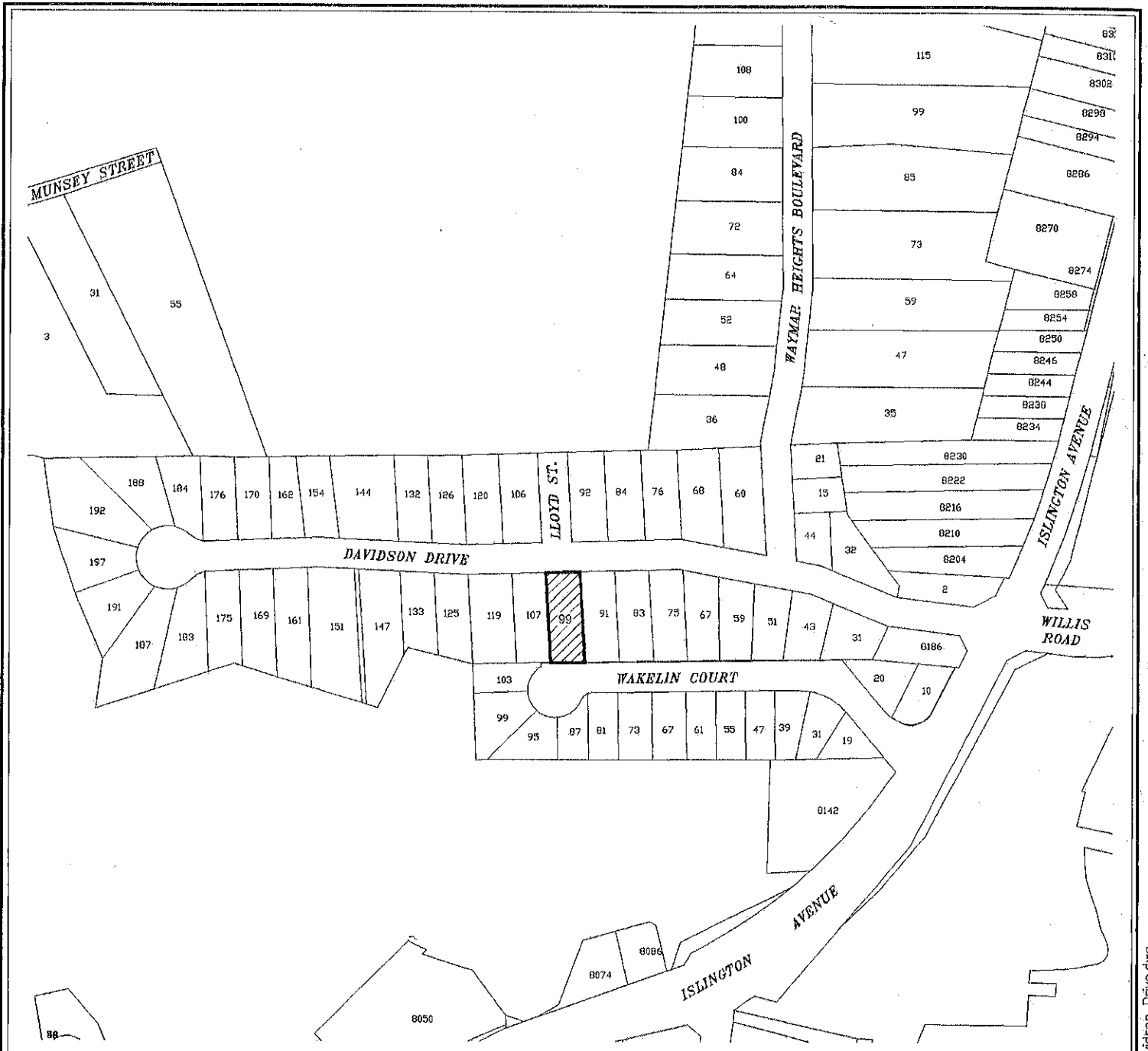
Janice Heron
Administrative Coordinator, Enforcement Services

Respectfully submitted,

Janice Atwood-Petkovski
Commissioner of Legal & Administrative Services
and City Solicitor

Tony Thompson
Senior Manager, Enforcement Services

ATTACHMENT No. 1



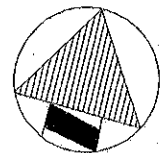
FENCE HEIGHT EXEMPTION 99 DAVIDSON DRIVE

LOCATION : Part of Lot 8,
Concession 7

LEGEND

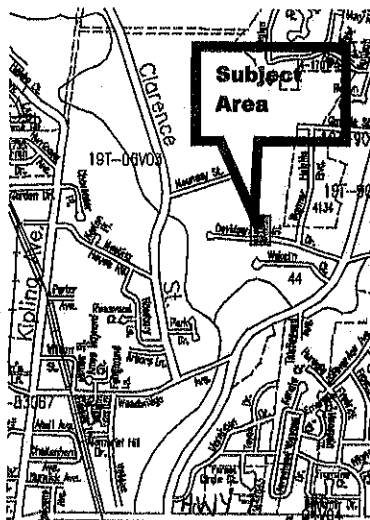
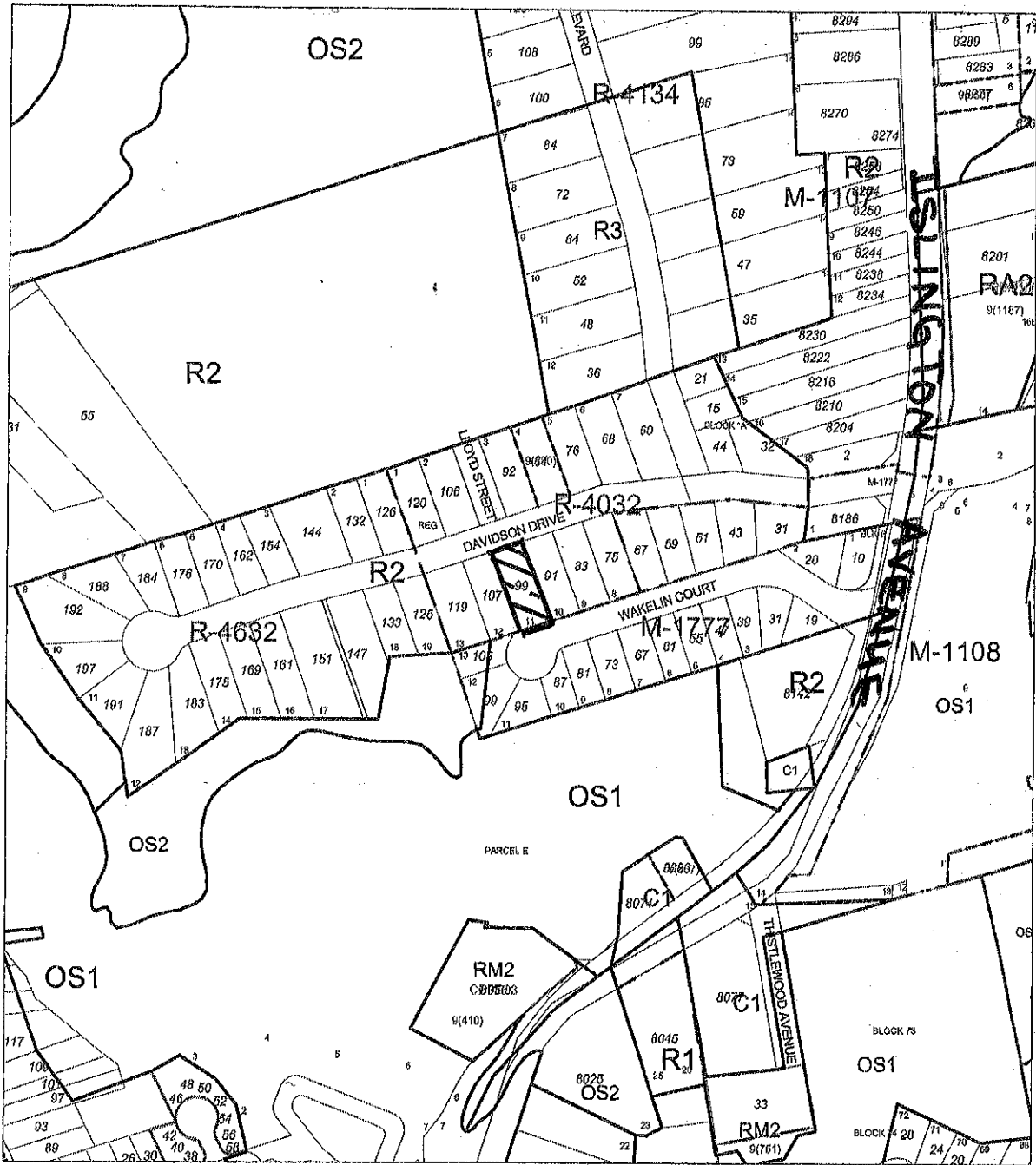


SUBJECT PROPERTY

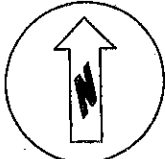


NOT TO SCALE

ATTACHMENT No. 2



City of Vaughan COMMITTEE OF ADJUSTMENT
The City Above Toronto



File No & Applicant

A048/08
Fausto Michael CIANFRONE

Subject Area

Municipally known as 99 Davidson Drive, Woodbridge

ATTACHMENT No. 3



RECEIVED
February 28, 2008
VAUGHAN COMMITTEE
OF ADJUSTMENT

Date: February 28, 2008
To: Todd Coles, Committee of Adjustment
From: Ryan Mino, Development Planning Department
Meeting Date: February 28, 2008
Owner: Fausto Michael Clanfrone
File(s): A048/08

Recommendation: The Development Planning Department recommends that Minor Variance Application A048/08 be adjourned and requests that the applicant obtain exemption from the City of Vaughan Fence By-law (80-90) for the fence adjacent to the tent gazebo.

Purpose: The applicant is requesting variances to permit the maintenance of an existing accessory structure (tent gazebo) with an increase in the maximum permitted height and with a reduced interior side yard setback.

Location: Lot 11, Registered Plan 4032
Part of Lot 8, Concession 7
89 Davidson Drive, Woodbridge

Development Planning Department:

Background/Analysis:

The Development Planning Department has reviewed the above-noted Application and provides the following comments.

The subject lands are designated "Low Density Residential" by OPA #240 (Woodbridge Community Plan) and are zoned R2 Residential Zone by By-law 1-88.

The applicant is requesting variances to permit the maintenance of an existing tent gazebo with an increase in the maximum permitted height and with a reduced interior side yard setback as follows:

	By-law Standard	By-law 1-88 Requirement	Proposed
1	maximum height of accessory structure	4.5 m	6.71 m
2	maximum height of accessory structure to eaves	3 m	4.01 m
3	minimum interior side yard setback to accessory structure	1.2 m	0 m

No other variances are requested.

A site visit was conducted on February 21, 2008, which includes photo documentation of the existing accessory structure and the requested variances. The following site conditions were noted. The subject lands are located in an older subdivision within the Woodbridge Community, characterized by large residential lots.

The applicant has installed an accessory structure (tent gazebo) on the existing deck in the rear yard, which is taller and closer to the easterly property line than permitted. The tent gazebo is similar to other prefabricated temporary tent gazebos, however it covers the entire existing rear yard deck and with a slope significant enough to prevent snow from building up and damaging the fabric. However, it should be noted that the 6.1 m height of the tent gazebo has been measured from the existing grade level in the rear yard and not from the existing deck.

Given the large size of the rear yard, there is no impact from the tent gazebo on the neighbours to the west and south. Additionally, it was noted while on site that the tent gazebo does not actually abut the property line at 0 m but appears to be set back approximately 0.25 m. The 0 m setback the applicant has requested is for the frame of the tent gazebo roof and not specifically the roof canvas. The approximate roof setback of 0.25 m will minimize any impact from water run-off onto the neighbour's property.

memorandum

There is an existing solid wood and iron fence along the east property line, which extends the full length of the deck. The covered deck, is open on the south end west sides. The amount of visual screening of the canopy from the neighbours to the east provided by the fence would be an important consideration in the Development Planning Department's recommendation with respect to this application. However, the fence appears to be approximately 2.4 m in height from the level of the existing deck and even higher from the ground level to the top of the fence, which would be non-compliant with the City's Fence By-law (80-90), which permits a maximum fence height of 1.8 m between property lines. Therefore, it would be inappropriate to make a recommendation on whether or not the requested variance is appropriate, based on a fence that is non-compliant with the City Fence By-law.

Accordingly, it is recommended that Minor Variance Application A048/08 be adjourned and that the applicant be required to obtain the appropriate exemption from the City of Fence Vaughan By-law from the Enforcement Services Department and Vaughan Council, prior to the Development Planning Department making a final recommendation on the disposition of the Minor Variance Application.

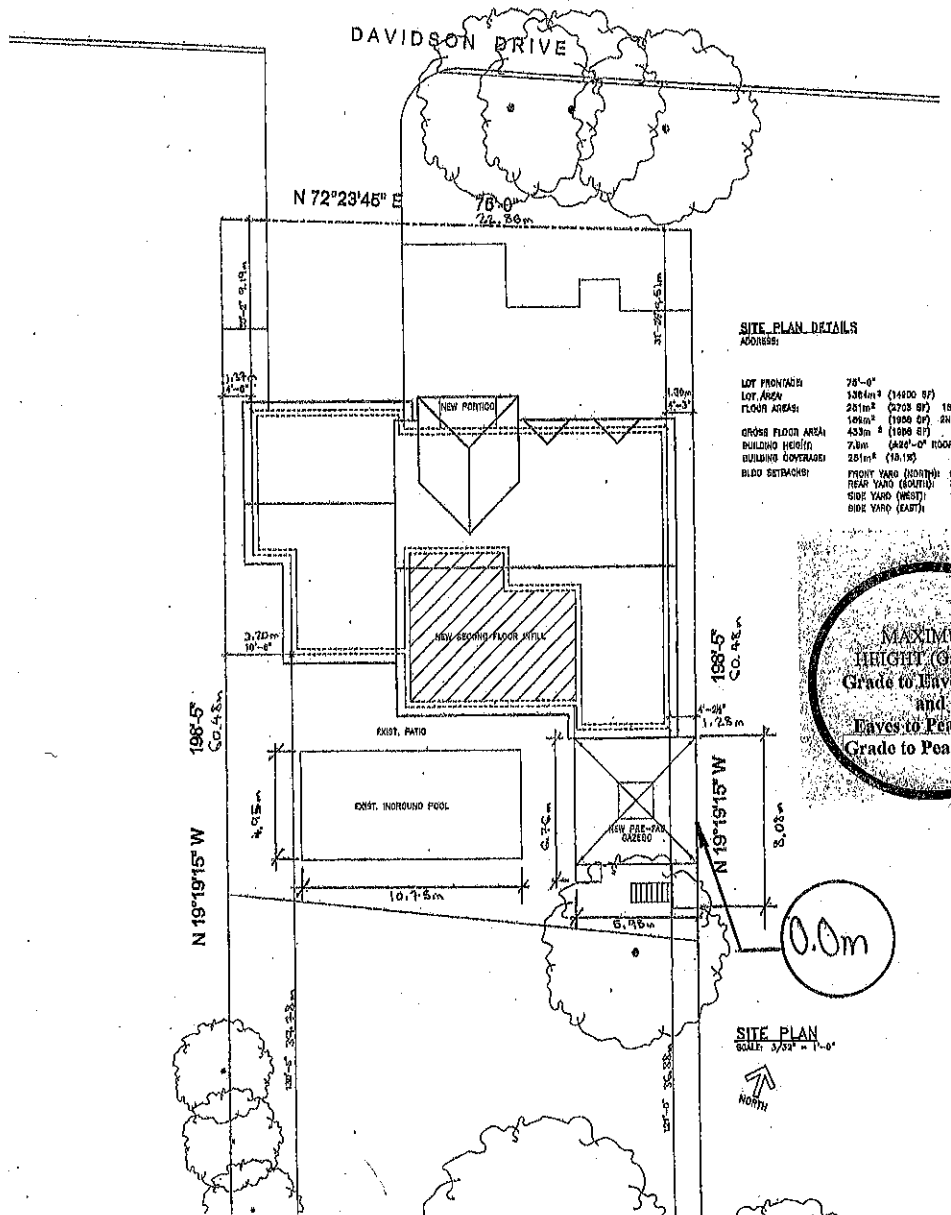
Conditions of Approval:

None.

memorandum

REVISED February 12/08

A048/08



SITE PLAN DETAILS

ADDRESS:

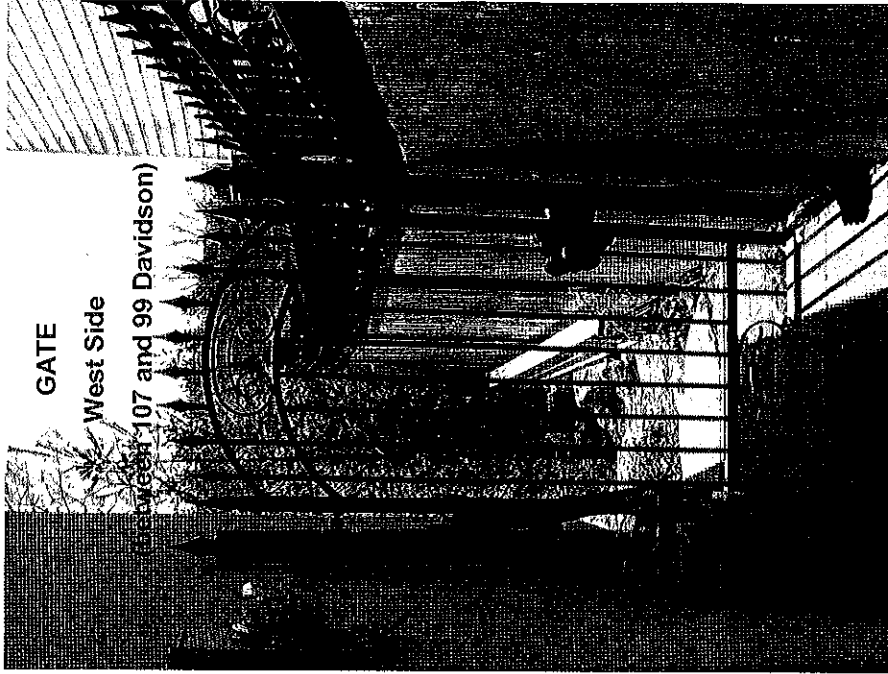
LOT FRONTAGE	78'-0"
LOT AREA	1361m ² (1490 SF)
FLOOR AREA:	281m ² (2708 SF) 1ST FLOOR
	100m ² (1068 SF) 2ND FLOOR
GROSS FLOOR AREA:	433m ² (1198 SF)
BUILDING HEIGHT:	7.8m (25'-0" ROOF PEAK)
BUILDING COVERAGE:	281m ² (18.1%)
BLDG SETBACKS:	FRONT YARD (NORTH): 8.16m (27'-0")
	REAR YARD (SOUTH): 30.5m (101'-0")
	SIDE YARD (WEST): 1.4m (4'-5")
	SIDE YARD (EAST): 1.2m (4'-3")

MAXIMUM HEIGHT (Gazebos)
Grade to Eaves 4.01m
and
Eaves to Peak 2.71m
Grade to Peak 6.71m

SITE PLAN
SCALE: 3/32" = 1'-0"

↑
NORTH

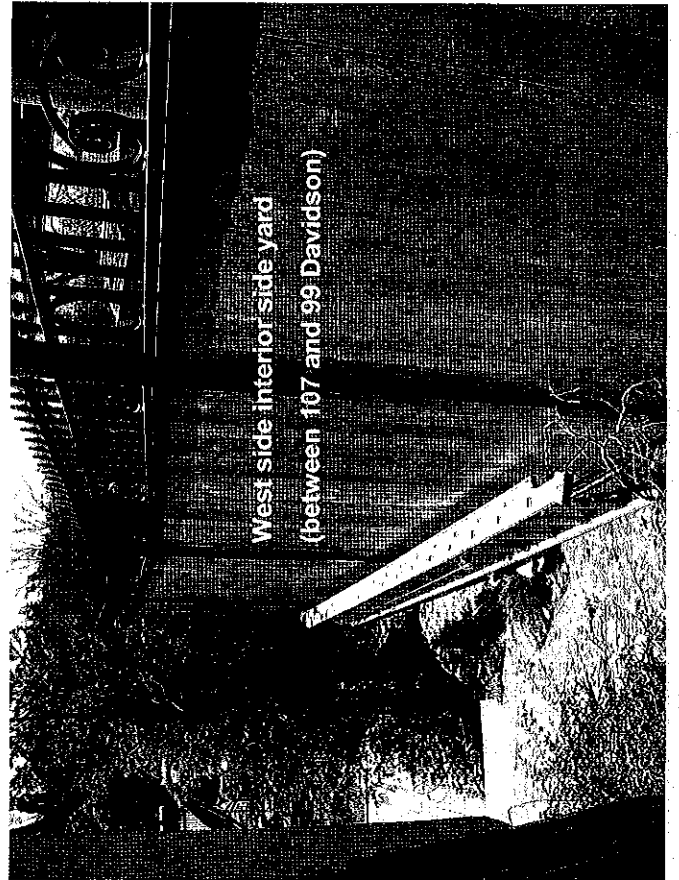
ATTACHMENT No. 4



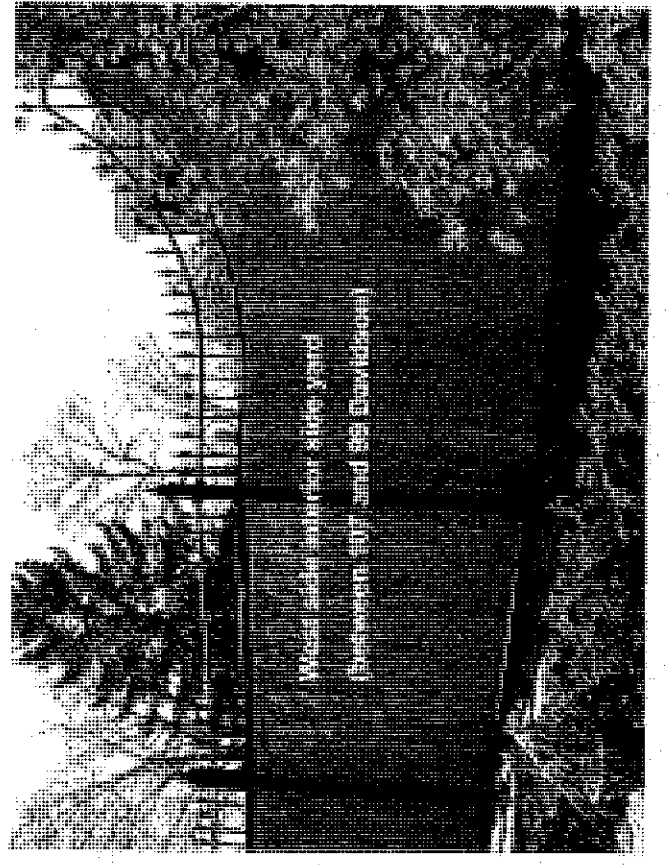
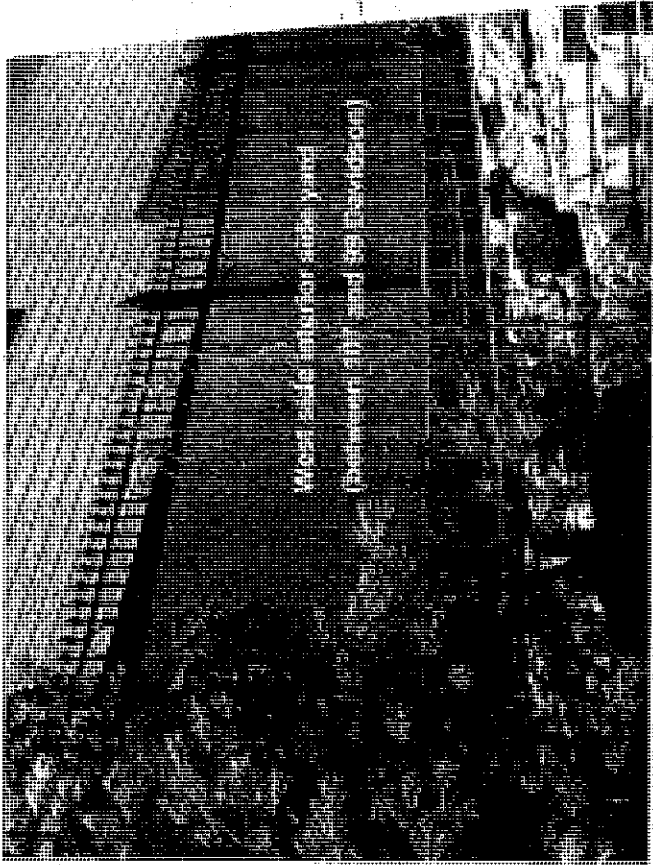
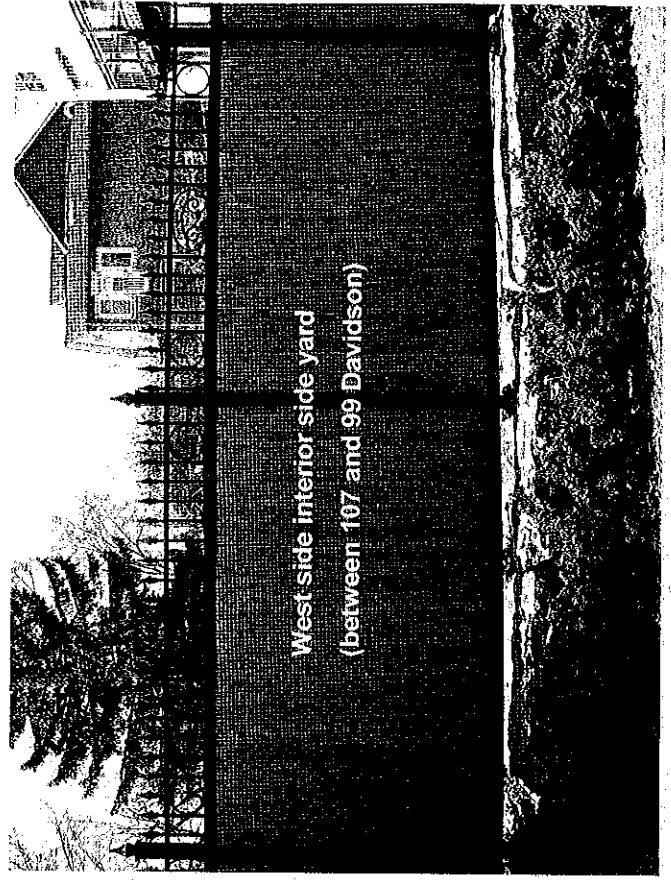
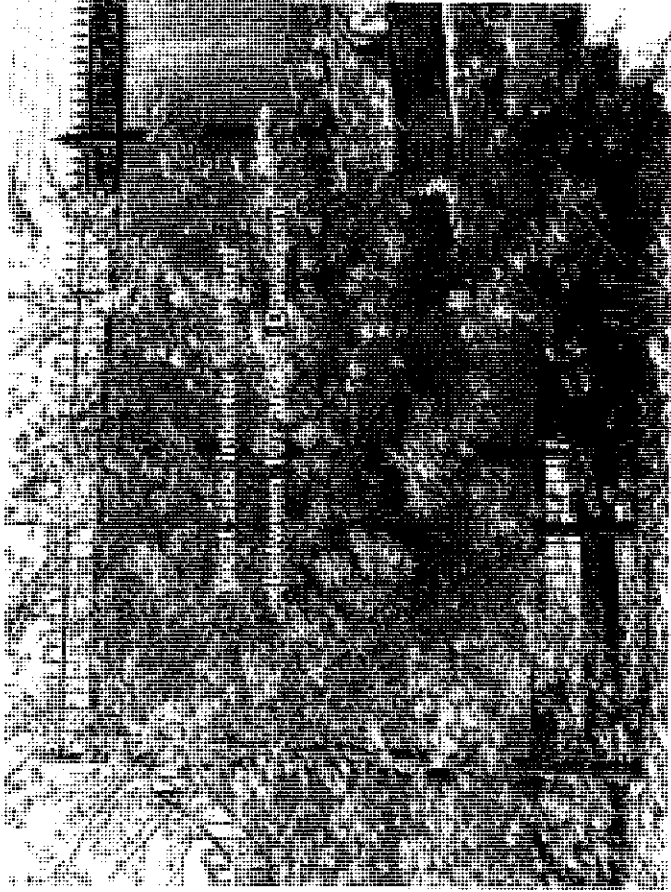
GATE
West Side
(between 107 and 99 Davidson)

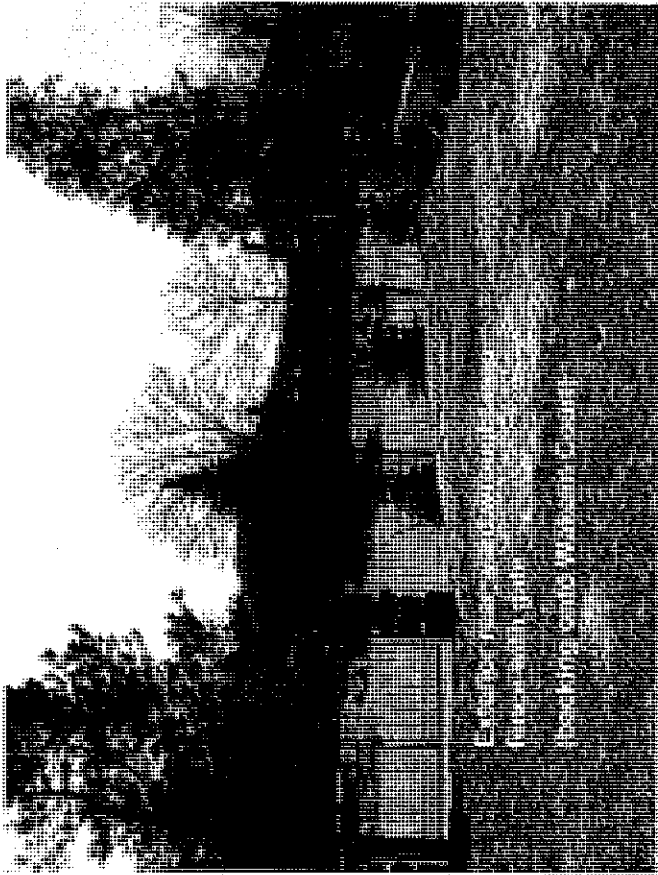


West side interior front yard
(between 107 and 99 Davidson)



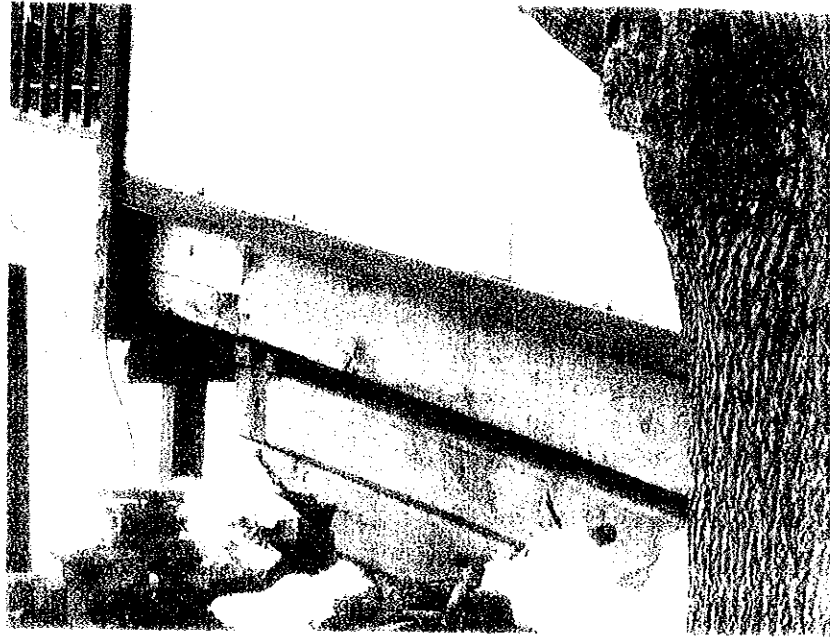
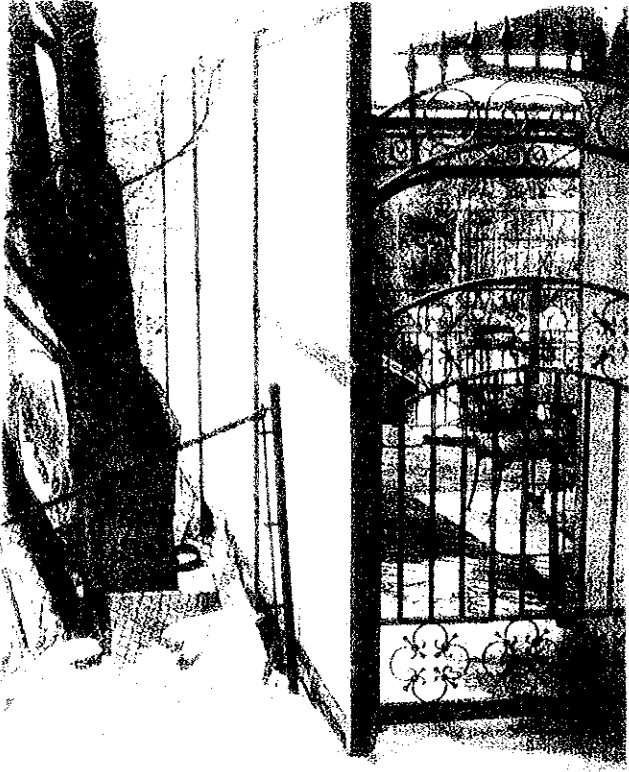
West side interior side yard
(between 107 and 99 Davidson)





Interior Side Yard – East Side

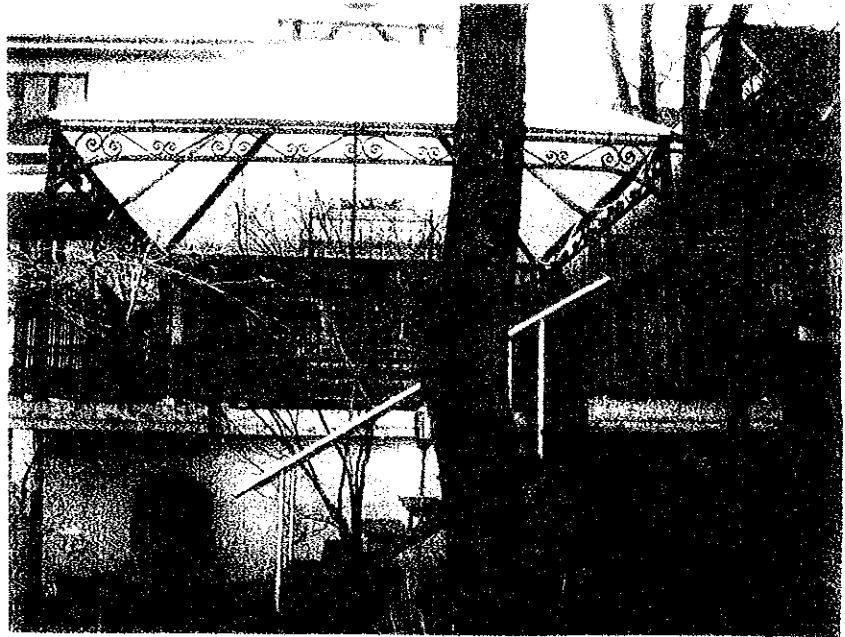
Interior Side Yard – East Side
(between 91 & 99 Davidson Drive)
Gate



Interior Side Yard – East Side
(between 91 & 99 Davidson Drive)
Grade drops



Interior Side Yard – East Side
(between 91 & 99 Davidson Drive)
Existing free standing post



Interior Side Yard – East Side
(between 91 & 99 Davidson Drive)
Existing 4' chain link fence at original grade
Full scale colour photo available

ATTACHMENT No. 5

RECEIVED

The City of Vaughan
2141 Major Mackenzie Drive
Vaughan, Ontario
Canada L6A 1T1

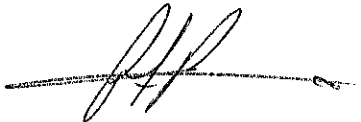
APR 17 2008
CITY OF VAUGHAN
ENFORCEMENT
SERVICES

Attention: Tony Thompson (Enforcement Services)

RE: Request For Fence Height Exemption @ 99 Davidson Drive

The height requirement is 6 feet in a rear yard. The present fence is well over the requirement (without physically measuring it is approx. 18ft). I do not consider this a minor variance. It poses an obstruction and a visual eyesore.

I strongly oppose the exemption. I request that it be rectified according to the referred by-law



Paul Postiglione

107 DAVIDSON DRIVE

ATTACHMENT No. 6

RECEIVED

Tony Thompson, Director, Enforcement Services
City of Vaughan
2141 Major Mackenzie Drive
Canada, L6A 1T1

APR 21 2008
CITY OF VAUGHAN
ENFORCEMENT
SERVICES

April 16, 2008

Dear Tony Thompson,

Regarding 99 Davidson Drive's application/request for a fence height exemption (to permit an existing rear yard fence), we (Mike De Bartolo and Annalisa Moser – owners of 91 Davidson Drive) wish to make the following comments:

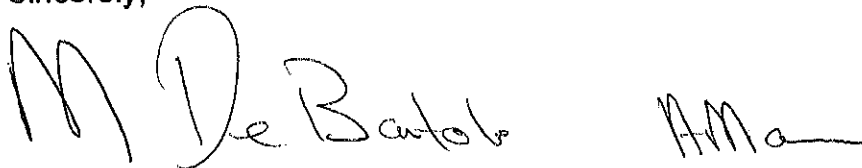
- 1) At no time prior to the construction of the fence portion, that divides our properties, were we notified of the height or dimensions that we could expect. In fact, no notice was given to us whatsoever that a fence was being erected.
- 2) We feel that the height of this fence is excessive.
- 3) The height is made more excessive due to the fact the fence is built on top of a retaining wall which is already anywhere from 3-6 feet above grade on our side.
- 4) The result is a fence/retaining wall which in some places reaches an incredible 18 feet in height and greatly reduces our late afternoon/early evening light, obstructs our sight line and view of the sky/horizon, restricts the natural flow of air, and creates a boxed-in feel for a large section of our rear yard. The height is so excessive in fact, that it partially obstructs the view from both our deck and study window (they are both on the main floor and we have a walkout basement).
- 5) We feel, for the above-noted reasons, this fence could negatively affect the re-sale value of our home.
- 6) In February 2008 the owner of 99 Davidson Drive approached us regarding an existing gazebo for which he was applying for an exemption/permit/variance as it exceeded both height and proximity (i.e., to the property line) restrictions. While we weren't happy about the height and proximity of the gazebo, in the spirit of neighbourliness we agreed, in writing, to its existence as we did not wish to see our neighbours go through the trouble and expense of modifying it. At that time we took the opportunity to voice our concern regarding what appeared to be a new section of the fence which was in the works (new posts had recently been

erected further down from the existing section of the fence – these posts were also excessively tall –e.g., approximately 8-9 feet and were also on a retaining wall. My neighbour assured us these posts were a “mistake,” that they were at least twice as high as what they should/would be, that most likely the new section would be “open” rather than “solid,” and that before anything was erected we would first be invited over to see the actual size/style/etc. Taking his word at face value, we also clearly indicated that while we felt the existing portion of fence was quite tall/high, we were okay with it (once again, in the spirit of good relations) as long as no new section was added that was of a similar height/style.

- 7) As to the current request for a fence height exemption, our main concern is that no “new” fence (either in progress or planned) is allowed to be added to that which already exists. We fully expect that our neighbour will honour his word and refrain from adding any more fence before consulting with us first, and that every attempt will be made to erect fencing that is mutually satisfactory to both parties. However, what remains problematic for us is that once the City of Vaughan approves a height exemption, then at any time in the future an extension could be legally erected.

- 8) If it is somehow possible for the Committee of the Whole or whomever shall have the final decision to allow the exemption for that portion of the fence which is already 100 percent completed, but deny the exemption for any additional portion (i.e., at the existing height/style/etc.), whether in progress or planned, then we shall honour our word and accept what is already there in accordance with our desire to maintain good relations. If, however, this is not possible; that an exemption is made in general terms and therefore, means 99 Davidson is then free to exercise the option to continue the existing fence the length of the property line at a similar height, in a similar style (i.e., solid- without any light being able to come through), then we must oppose the proposed exemption outright including what already exists, what is in progress, what is planned, and what may be attempted in the future.

Sincerely,

The image shows two handwritten signatures in black ink. The first signature, on the left, is 'M DeBartolo' and is written in a cursive, somewhat stylized font. The second signature, on the right, is 'Annalisa Moser' and is also written in a cursive font, appearing more fluid and less formal than the first signature.

Mike DeBartolo/Annalisa Moser – owners of 91 Davidson Drive.
(905) 856-8690