



STAFF REPORT ACTION REQUIRED

Application for Encroachment Agreement 31 King Georges Road

Date:	June 11, 2007
To:	Etobicoke York Community Council
From:	Curtis Sealock, Manager, Municipal Licensing and Standards
Wards:	Ward 5, Etobicoke - Lakeshore
Reference Number:	ML&S Folder No. 06 161184 RAW

SUMMARY

This Staff Report is about a revised application submitted by the property owners of 31 King Georges Road to maintain the existing encroachments, including two different fences on the Prince Edward Drive flankage and a series of proposed hedges and vines, which are within City road allowance, for which the Community Council has delegated authority from City Council to make a final decision.

This report, which has incorporated the comments submitted by various City Divisions, Utility Companies, the Ward Councillor as well as the local residents, should be considered in conjunction with the applicants' request for a Fence Exemption to Municipal Code, Chapter 447, Fences, for the close board wooden fence built partly on private property.

RECOMMENDATIONS

Municipal Licensing and Standards recommend that the Etobicoke York Community Council modifies this application for fence encroachment and adopt the following:

1. the City Solicitor be authorized to prepare an Encroachment Agreement for the existing and proposed encroachments on King Georges Road and Prince Edward Drive flankage as modified (Attachment 2);

2. the applicant to pay the City of Toronto all fees associated with the preparation of this agreement, and an annual fee for the use of the road allowance at a rate of \$11.00 per square metre for the encroaching area; such fees are subject to change;
3. the signed agreement is returned to the City along with the required Certificate of Insurance, evidencing a third party bodily and property damage insurance in the amount of \$2,000,000.00 or such other coverage and greater amount as the City may require, and naming the City of Toronto as an additional insured party under the policy;
4. the Certificate of Insurance shall be renewed on an annual basis for the life of the encroachments;
5. the proposed hedge on the outside of the open wood fence adjacent to Prince Edward Drive be eliminated;
6. the owner to constantly trim and maintain the proposed hedges and vines that encroach on road allowance to a maximum height of 0.80 metres, and ensure they do not encroach on the sidewalk and cause any obstruction, damage or injury to pedestrians; hedges on private property shall comply with the requirements of the Fence By-law under Chapter 447 of the Toronto Municipal Code;
7. the owner to cut the grass and maintain the fence on road allowance in a state of good repair;
8. vehicles shall not be parked to encroach over the sidewalk (Attachment 5); and
9. the owners to obtain all necessary construction/streets occupation permit(s) for any work on road allowance.

FINANCIAL IMPACT

There are no financial implications resulting from the adoption of this report.

ISSUE BACKGROUND

As the result of a complaint being received, Municipal Licensing and Standards staff investigated the property and determined that fencing had been erected around the perimeter of the property, both on private property portion as well as the City road allowance. The owner was contacted and advised that the constructed fence was in violation as it did not comply with the requirements for private property set out in Toronto Municipal Code, Chapter 447, Fences and the portion of the fencing within the road allowance was built without an encroachment agreement and created an unsafe condition due to sight line issues.

In consideration of the application for a Fence Encroachment on City road allowance on King Georges Road frontage and Prince Edward Drive flankage (Attachment 1), and an exemption to the Fence By-law under Chapter 447 of the Toronto Municipal Code during its meeting on May 1, 2007, the Etobicoke York Community Council deferred this matter to its June 26, 2007 meeting, in order to enable the applicant to submit a revised proposal, after meeting with the local resident, City staff and Ward Councillor on May 10, 2007.

COMMENTS

The original application was circulated to the Utility Companies as well as various City Divisions for comments. Transportation Services has responded indicating concern relating to line of sight issues for the existing closed boarded wooden fence adjacent to the driveway on Prince Edward Drive and require that the fence be modified by cutting the fence back 2.4 metres along the driveway as well as adjacent to the sidewalk on Prince Edward Drive. The application was modified to take into consideration this comment, before submission to the Etobicoke York Community Council meeting on May 1, 2007.

The 1.83 metre close board wooden fence within the private property of the Prince Edward Drive flankage was not constructed in compliance with the requirements of the City of Toronto, Municipal Code, Chapter 447, Fences. As a result, the owner has made an application for an exemption to the requirements as it relates the height of the fence within the flankage yard. The report for Fence Exemption is being submitted to the Etobicoke York Community Council for consideration at this time, as well.

Having considered the concerns raised by the local residents, the applicant has submitted a revised proposal to the original application, which includes the following:

- (a) remove the existing fence along King Georges Road frontage (Attachments 1, 2 and 3);
- (b) cut back the existing 0.91 metre high open wood fence at the north west corner of Prince Edward Drive on the City road allowance for a length of 3 metres (3.4 metres measured from the back of the sidewalk along King George Road) (Attachments 1, 2 and 3);
- (c) cut back the existing 0.91 metre high open wood fence at the north east of the property on the City road allowance at the King Georges Road frontage to the property line for a length of 3 metres (3.4 metres measured from the back of the sidewalk) (Attachments 1, 2 and 3) ;
- (d) install a 0.80 metre high yew hedge at the front within the road allowance along King Georges Road 3.4 metres from the back of the sidewalk (Attachments 4);

- (e) install similar hedge along and outside the cut back open wood fence on Prince Edward Drive flankage from the north west corner of the property southward to the driveway;
- (f) install similar hedge along and inside the cut back open fence at the front yard along the east property line; and
- (g) install vines along the existing fence on Prince Edward Drive flankage.

The revised submission also incorporated Transportation Services' recommendation to modify the existing close board wooden fence, measuring 1.83 metres in height, along Prince Edward Drive, by re-constructing the fence so as to provide adequate line of sight adjacent to the driveway. This is to be done by cutting back the fence 2.4 metres along the driveway and Prince Edward Drive (Attachments 2 and 5).

CONTACT

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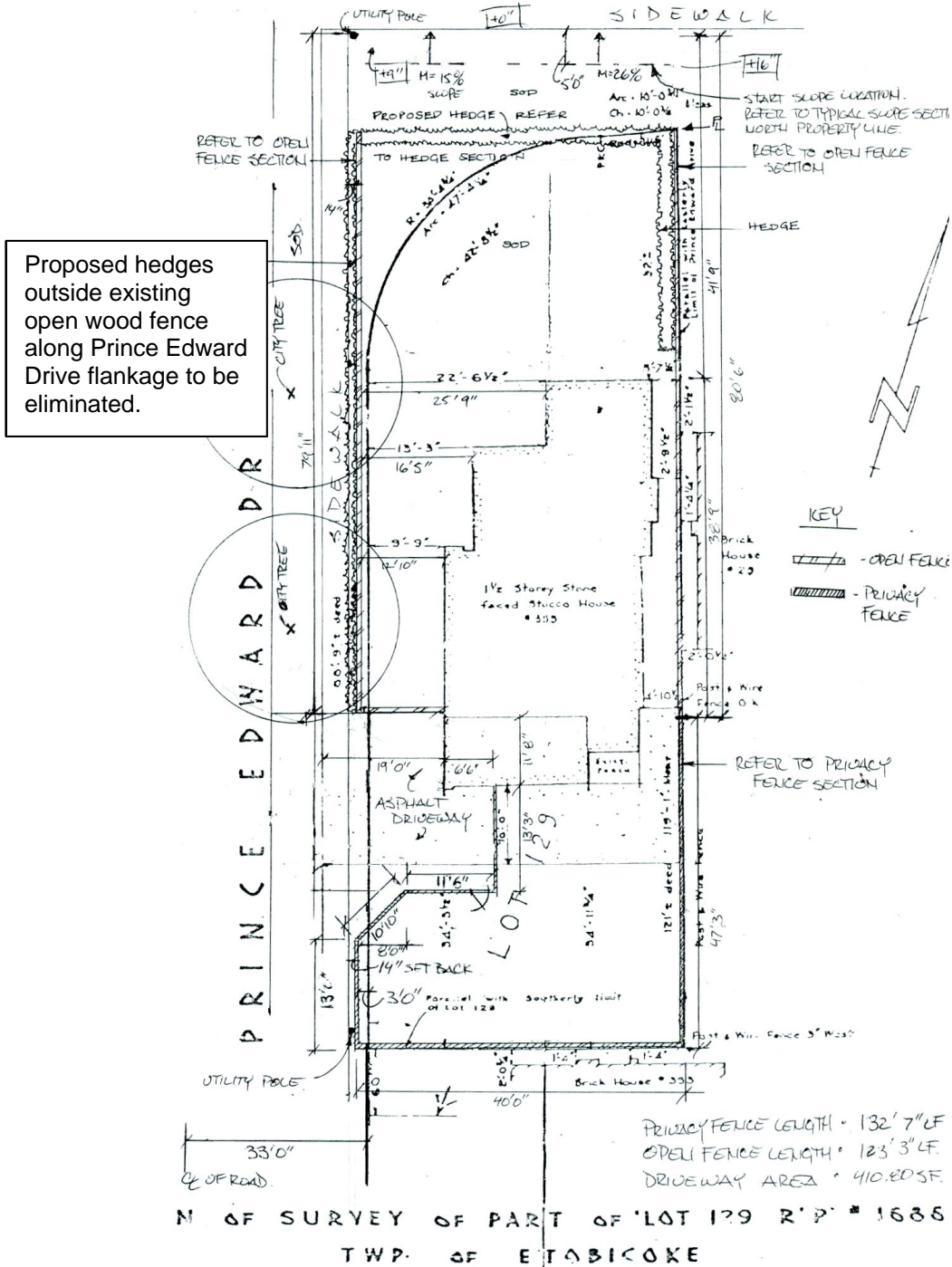
SIGNATURE

Curtis Sealock, District Manager
Municipal Licensing and Standards
Etobicoke York District

ATTACHMENTS

- Attachment #1: Original Proposal (incorporating modifications for sightline concerns)
- Attachment #2: Revised Proposal
- Attachment #3: Photos showing the existing open wood fence
- Attachment #4: Sketch of proposed hedge and open board wood fence
- Attachment #5: Sketch and photo of the existing close board wood fence

KING GEORGES ROAD



Attachment 2 – Revised Proposal

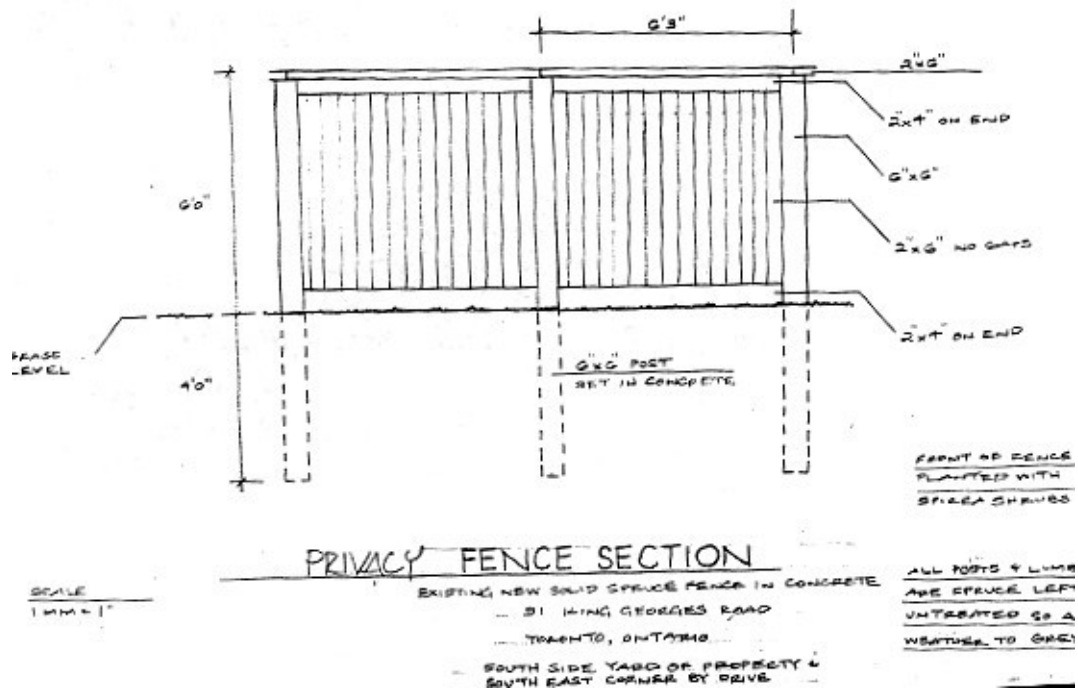


Photo showing the existing open wood fence at King Georges Road frontage



Photo showing the existing open wood fence at the Prince Edward Drive flankage

Attachment 3



Attachment 5 – sketch and photo of the existing close board wood fence