

**Request for an Encroachment Agreement
183 Banff Road**

Date:	April 11, 2007
To:	North York Community Council
From:	Bryan Byng, District Manager, Municipal Licensing and Standards, North York District
Wards:	Ward 25 - Don Valley West
Reference Number:	IBMS No. 07-102576

SUMMARY

This staff report is about a matter that the Community Council has delegated authority to make a final decision [provided that it is not amended so that it varies with City policy or by-laws].

The purpose of this report is to consider a request by the owner(s) of 183 Banff Road being a one-family detached dwelling, seventh density zone (R7), for an encroachment agreement. The existing encroachment consists of hedges, a walkway with steps, landscaping rocks, retaining walls with guards, and a porch with steps including guardrails. The proposed encroachment consists of a wooden fence located on the City road allowance.

RECOMMENDATIONS

Municipal Licensing and Standards recommend that the Encroachment application be approved, subject to the following conditions:

1. that the owner(s) remove the existing walkway with steps which connect to the City curb onto Broadway Avenue and replace with soil and sod, to the satisfaction of Transportation Services, North York District;
2. the owner(s) remove the existing landscaping rocks to a minimum of 2.13 metres behind the City curb to the satisfaction of Transportation Services, North York District;

3. the owner(s) remove the existing hedge along the front entrance on Banff Road to the satisfaction of Transportation Services, North York District;
4. that the owner(s) enter into an Encroachment Agreement with the City to the satisfaction of the City Solicitor and the Executive Director of Municipal Licensing and Standards;
5. that the appropriate City Officials be authorized to take the necessary action to give effect thereto;
6. that no claims will be made against the City by the owner(s) for damages occurring to the area of the encroachment or its elements during snow removal;
7. that the life of the Agreement be limited to 10 years from the date of registration on title or to the date of removal of the encroachment at which time, the City may consider the Agreement for further extension, if requested by the applicant;
8. the indemnification to the City by the owner(s) of the encroachment for all liability relating in any way to the encroachment and providing of an insurance policy for such liability for the lifetime of the Agreement in a form as approved by the City Solicitor, in an amount no less than \$2,000,000.00 or such greater amount as the City Solicitor may require;
9. in the event of sale or transfer of the property abutting the encroachment, Legal Services be authorized to extend the Encroachment Agreement to the new owner, subject to the approval of the Executive Director of Municipal Licensing and Standards;
10. the owner(s) pay the following fees:
 - a. Application Fee of \$456.32 (paid).
 - b. Legal Administration Cost and Registration on Title, plus disbursements, including G.S.T.
 - c. One-time fee of \$430.49 plus G.S.T., totalling \$456.32.

Financial Impact

There is no financial impact anticipated resulting from the adoption of this report.

DECISION HISTORY

The application was received from the property owner(s) in January 2007 and was circulated to Transportation Services and the following Utilities: Enbridge, Bell Canada, Cable and Hydro.

ISSUE BACKGROUND

The encroachments on the City road allowance are as follows:

- (a) A hedge that is 1.0 metre in height along front entrance on Banff Road and 1.0 metre from City curb. Another hedge is 5.60 metres in height, along Broadway Avenue which is 3.20 metres from the City curb;

- (b) A walkway with steps connecting to Broadway Avenue;
- (c) Landscaping rocks along flankage yard;
- (d) Retaining walls on sides of driveway measuring 0.76 metre in height at north side and 0.60 metre in height on south side, with wrought iron guardrails;
- (e) A portion of a porch with guards and steps;
- (f) A wooden board on board fence measuring 1.83 metres in height along Banff Road allowance.

COMMENTS

Utilities have provided clearance letters indicating that they have no objection.

Transportation Services, North York District staff, as part of the review, have indicated that the existing walkway with steps directed towards the City curb shall be removed and replaced with soil and sod.

Transportation Services, North York District staff also indicated that the landscaping rocks along Banff Road allowance be removed and replaced with soil and sod and that the portion of hedge at the front entrance be removed.

CONTACT

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SIGNATURE

Bryan Byng, District Manager
Municipal Licensing and Standards
North York District

ATTACHMENTS

1. Site Plan / Survey