



**STAFF REPORT  
ACTION REQUIRED**

**Request for an Encroachment Agreement  
3 McBain Avenue**

<b>Date:</b>	May 4, 2007
<b>To:</b>	North York Community Council
<b>From:</b>	Bryan Byng, District Manager, Municipal Licensing and Standards, North York District
<b>Wards:</b>	Ward 25 - Don Valley West
<b>Reference Number:</b>	IBMS No. 07-108821

**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 3 McBain Avenue, being a one-family detached dwelling seventh density zone (R7) for an encroachment agreement. The existing encroachment consists of two hedges, decorative rocks and shrubs 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 hedges to a distance of 2.13 metres behind the City curb, to the satisfaction of Transportation Services, North York District;
2. that the owner(s) remove the decorative rocks to a distance of 2.13 metres behind the City curb, to the satisfaction of Transportation Services, North York District;
3. that the owner(s) remove or relocate the shrubs to 1.0 metres from the fire hydrant area, 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 February 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) Two hedges on either side of the driveway measuring 5.7 metres in length. The north side hedge is approximately 0.80 metre in height and the south side hedge is approximately 0.40 metre in height;
- (b) A row of decorative rocks measuring 5.5 metres in length;
- (c) Three shrubs measuring 0.60 metre in height around the fire hydrant.

## **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 two hedges and the decorative rocks shall be removed or relocated to 2.13 metres from the City curb and that the shrubs shall be removed for 1 metre from the fire hydrant.

## **CONTACT**

Emilio Vettese, Supervisor, Municipal Licensing and Standards, North York District  
Tel: (416) 395-7013; Fax: (416) 395-7056; Email: evettes@toronto.ca

## **SIGNATURE**

---

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

## **ATTACHMENTS**

1. Site Plan
2. Survey