

**Encroachment Agreement Request
293 Robina Avenue**

Date:	October 2, 2007
To:	North York Community Council
From:	Bryan Byng, District Manager, Municipal Licensing and Standards, North York District
Wards:	Ward 15 - Eglinton-Lawrence
Reference Number:	IBMS No. 06-150787

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 293 Robina Avenue, being a one-family detached dwelling second density zone (R2) for an encroachment agreement. The existing encroachment consists of a canopy, metal picket fence, raised flower bed, stairwell enclosure, chain link fence, concrete walkway, a bench, three cedar trees and an emergency exit stairwell 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 canopy, to the satisfaction of Transportation Services, North York District;
2. That the owner(s) submit plans and obtain a permit or remove all unapproved work, to the satisfaction of the Building Division;
3. That the owner(s) remove the vinyl lattice attached to the metal picket fence, to the satisfaction of Transportation Services, North York District;
4. That the owner(s) remove all advertising signs from the chain link fence, to the satisfaction of Transportation Services;

5. That the owner(s) remove any unlawful storage of material and maintain clean, to the satisfaction of Municipal Licensing and Standards;
6. 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;
7. That the appropriate City Officials be authorized to take the necessary action to give effect thereto;
8. 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;
9. That the life of the Agreement be limited from the date of registration on title or to the date of removal of the encroachment;
10. 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;
11. 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;
12. The owner(s) pay the following fees:
 - a. Application Fee of \$452.32 (paid).
 - b. Legal Administration Cost and Registration on Title, plus disbursements, including G.S.T.
 - c. Annual fee in accordance with the former City of York Municipal Code Chapter 1004.12.7, namely \$25.00 plus \$5.50 per square metre including GST ($160.72 \text{ square metres} \times \$5.50 = \$883.96 + \$25.00 = \$908.96 + \text{GST} = \963.50);
 - d. Fees may be subject to change.

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 June 2006 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 canopy attached to the dwelling and garage measures 5.07 metres wide and extends 4.53 metres into the road allowance.
- (b) A metal fence extends 4.53 metres into the road allowance and runs parallel to Jesmond Avenue and west side of the driveway for a distance of 8.26 metres.
- (c) A raised flower bed.
- (d) A stairwell enclosure made of acrylic sheathing and wood stud framing located on the north flankage yard of Jesmond Avenue.
- (e) A chain link fence extends 4.61 metres into the road allowance and runs parallel to Jesmond Avenue and curves around to Robina Avenue for a distance of 31.78 metres.
- (f) A concrete walkway extends 5.28 metres, leading to the public sidewalk.
- (g) A bench
- (h) Three cedar trees.
- (i) The emergency exit stairwell encroaches 5.88 square metres onto the untravelled portion of Jesmond Avenue, was previously addressed in an Encroachment Agreement passed by City of York Council on November 1, 1988, and not currently registered on title.

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 canopy be removed from the road allowance. Transportation Services also recommends the vinyl lattice and the advertising signs be removed from the fences due to site lines.

Building Division, North York District staff have indicated that the owner(s) shall submit plans and obtain a permit or remove all unapproved work.

Municipal Licensing and Standards, North York District staff, as part of their review, recommend that any unlawful storage and keeping of material be removed and the area is to be maintained clean.

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