



**STAFF REPORT
ACTION REQUIRED**

16 Laxton Avenue – Decorative Fence with Brick Pillars

Date:	March 12, 2007
To:	Toronto and East York Community Council
From:	Manager, Right of Way Management, Transportation Services Toronto and East York District
Wards:	Parkdale-High Park -Ward 14
Reference Number:	Te07015te.row

SUMMARY

This staff report is about a matter which the Community Council has delegated authority from City Council to make a final decision.

Transportation Services has assessed an appeal from the owner of 16 Laxton Avenue for the construction of a 1.0 high decorative wrought iron fence and maintenance of brick pillars within the public right of way fronting 16 Laxton Avenue, immediately back of sidewalk.

Even though the encroachments do not meet the requirements of the Municipal Coe, provided that the brick pillar immediately adjacent to the driveway servicing 16 and 18 Laxton Avenue is relocated 0.46 m easterly of the driveway fronting 16 Laxton Avenue, Transportation Services recommends approval of the encroachments.

The owners together with any interested parties will be given an opportunity to make a deputation before Community Council.

RECOMMENDATIONS

Transportation Services recommends that Toronto and East York Community Council:

1. approve the construction and maintenance of a decorative wrought iron fence and brick pillars within the public right of way fronting 16 Laxton Avenue, provided that the owners relocating the brick pillar immediately adjacent to the driveway servicing 16 and 18 Laxton Avenue 0.46 m easterly of the driveway fronting

16 Laxton Avenue, subject to the owners entering into an encroachment agreement with the City of Toronto, agreeing to but not limited to the following:

- a. maintain the decorative wrought iron fence together with brick pillars at their own expense in good repair and a condition satisfactory to the General Manager of Transportation Services and will not make any additions or modifications to the encroachment beyond what is allowed under the terms of the Agreement;
 - b. remove the decorative wrought iron fence and brick pillars upon receiving 90 days written notice to do so; and
 - c. accept such additional conditions as the City Solicitor or the General Manager of Transportation Services may deem necessary in the interest of the City; and
2. direct Legal Services and/or the General Manager of Transportation Services to extend the Encroachment Agreement to the new owner, in the event of sale or transfer of the property abutting the encroachment, subject to the approval of the General Manager of Transportation Services.

Financial Impact

There is no financial impact to the City as a result of this report.

ISSUE BACKGROUND

A complaint was received through the former Ward Councillor's office on behalf of the abutting owners of 18 Laxton Avenue who were concerned that a fence had been constructed close to the sidewalk area and in close proximity to the shared driveway. According to the owners of 18 Laxton Avenue, the pillar restricts their ingress and egress from the driveway.

Inspection by Transportation Services confirmed that construction of a fence was underway and four brick pillars had been installed immediately back of the City sidewalk. One of the pillars was installed adjacent to the existing driveway servicing 16 and 18 Laxton Avenue without prior approval and the requisite permit to do so (Appendix 'A').

It was also noted that steps and a small rock retaining wall that serves as a planter was installed within the public right of way.

Inspection by Transportation Services also confirmed that the owner of 18 Laxton Avenue has also undertaken landscaping features within the public right of way and has installed a low stone wall immediately back of the City sidewalk fronting their property right up to the edge of the driveway (Appendix 'B'). The width of the driveway entrance at the sidewalk between the stone wall and the brick pillar measures 2.4 m in width. A check of available records shows that there is no encroachment agreement for this work.

It was also noted that the garage servicing 18 Laxton Avenue is not accessible due to existing landscaping that inhibits entrance to the garage (Appendix 'C').

In order to improve access in and out of the driveway, the owners of both properties should be requested to relocate the landscaping features a minimum of 0.46 m away from the driveway.

The owner of 16 Laxton Avenue submitted an application requesting permission to complete the construction of the fence and maintain the existing encroachments.

COMMENTS

Applicable regulation

The construction and maintenance of fences within the public right of way are governed under the criteria set out in Chapter 313-33, which provides for fences to be constructed with a minimum set back of 0.46 m from the rear edge of the City sidewalk or a minimum of 2.1 m from the curb where no sidewalk is present. In this case, the pillars have been constructed immediately back of the City sidewalk in contravention with the Code requirements.

The maintenance of the steps and small rock retaining wall that serves as a planter can be considered under the provisions of Chapter 313, Streets and Sidewalks, of the former City of Toronto Municipal Code and can be dealt with administratively.

Reasons for approval

Transportation Services has reviewed the application and determined that the decorative fence with brick pillars do not negatively impact on the public right of way, notwithstanding the reduced setback from the City sidewalk. However, to improve the ingress and egress of the driveway, the owners of 16 Laxton Avenue should be required to relocate the brick pillar 0.46 m away from the driveway.

Details of the encroachment are on file with Transportation Services.

CONTACT

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SIGNATURE

Angie Antoniou
Manager, Right of Way Management

ATTACHMENTS

Appendix 'A' – photo showing front of 16 Laxton Avenue

Appendix 'B' – photo showing front of 16 and 18 Laxton Avenue

Appendix 'C' – photo showing rear of 18 Laxton Avenue

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