



**STAFF REPORT
ACTION REQUIRED**

631 Coxwell Avenue – Privacy Fence and Retaining Wall

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:	Beaches-East York – Ward 32
Reference Number:	Te07020te.row

SUMMARY

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

Transportation Services has assessed an appeal from the agent of the property owner of 631 Coxwell Avenue for the construction of a wooden privacy fence surmounted on a wooden retaining wall within portions of the public right of way fronting 631 Coxwell Avenue at an overall height of 1.6 m and on the Earl Haig Avenue flank at an overall height of 2.5 m.

Although the fence and retaining wall exceed the allowable height under the Municipal Code, they do not impact negatively on the public right of way. Therefore, Transportation Services recommends approval of the encroachments.

The owner 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 of a wooden privacy fence and wooden retaining wall within portions of the public right of way fronting 631 Coxwell Avenue, subject to the property owner entering into an encroachment agreement with the City of Toronto, agreeing to but not limited to the following:

- a. maintain the privacy fence and retaining wall at his/her 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 privacy fence and retaining wall 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 a 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

The agent of the property owner of 631 Coxwell Avenue submitted an application requesting permission to construct a wooden privacy fence surmounted on a wooden retaining wall within portions of the public right of way fronting 631 Coxwell Avenue at an overall height of 1.6 m and on the Earl Haig Avenue flank at an overall height of 2.5 m.

As a portion of the fence on the Earl Haig Avenue flank will abut the private driveway servicing the property, the owner will be installing a 45 degree angle splay from a point 1.8 m parallel and perpendicular to the driveway. In addition, the owner will be required to maintain a minimum clearance of 0.61 m between the utility pole and the proposed fence.

The applicant indicates that the request for exceeding the allowable height of the fence and wall is solely based on the grade difference between the property and the adjacent sidewalk.

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 to a maximum height of 1.9 m on the flank of a property and up to 1.0 m in height in front of a property if they are neither hazardous nor unsightly in appearance. In addition,

fences must be set back 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.

There are similar provisions within the Municipal Code to allow for the construction of retaining walls.

Reasons for approval

Transportation Services has reviewed the application and determined that the proposed wooden privacy fence and wooden retaining wall, even though the overall height is higher than what is allowable under the Municipal Code, do not impact negatively on the public right of way. Staff have noted that there are similar fences within the immediate area.

Details of the encroachment are on file with Transportation Services.

Photos of the property are shown on Appendix 'A'.

CONTACT

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SIGNATURE

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ATTACHMENTS

Appendix 'A' - photos

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