



STAFF REPORT ACTION REQUIRED

1 Leuty Avenue – Fence and Arbour

Date:	April 16, 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:	Te07019te.row

SUMMARY

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

Transportation Services has assessed an appeal from the property owners of 1 Leuty Avenue for the construction of a 1m high wooden picket fence together with an arbour 2.5 m in height within the public right of way fronting their property. The applicants are proposing to install the fence and arbour immediately back of the sidewalk rather than 0.46 m in keeping with the Municipal Code requirements.

Given that the encroachments will not impact negatively on the public right of way, Transportation Services recommends the approval of the construction of the fence and arbour, subject to the property owners entering into an encroachment agreement with the City of Toronto.

The owners 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 request to construct the fence and arbour immediately back of the sidewalk, 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 fence and arbour 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 fence and arbour upon receiving 90 days written notice to do so;
 - c. construct the fence with no sharp points on top; and
 - d. 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

The owners of 1 Leuty Avenue have submitted an appeal requesting permission to construct a 1.0 m high wooden picket fence and a 2.5 m high arbour within portions of the public right of way fronting their property. The applicant is requesting that the fence and arbour be constructed immediately back of the sidewalk rather than 0.46 m as provided by the Municipal Code.

In support of their application, the owners have indicated that the proposed fence would compliment the local streetscape as many other homes on Leuty Avenue have fences, hedges, retaining walls that are built right up to the back edge of the City sidewalk. They have also pointed out that dog traffic at their location is extremely high as their property is in close proximity to the Beaches boardwalk park and a leash free dog area. Furthermore, the owners have indicated a need for a fence given that they have experienced vandals digging up and removing plants together with other things from their front yard.

Construction Permit No. 35322201 was issued March 27, 2007 for the installation and maintenance of the fence and arbour, subject to a number of conditions, amongst which that the owner enter into an encroachment agreement. The proposal was discussed with the Ward Councillor who agreed with the issuance of the construction permit prior to Toronto and East York Community Council approval. To date, the fence posts have been installed immediately back of the 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 no provisions within the Municipal Code that speak to the construction of decorative arbours within the public right of way.

Reasons for approval

Transportation Services has reviewed the application and determined that the fence and arbour constructed immediately back of the sidewalk will not negatively impact on the public right of way.

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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