



**STAFF REPORT
ACTION REQUIRED**

26 Whitehall Road - Privacy Fence

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| Date: | May 10, 2007 |
| To: | Toronto and East York Community Council |
| From: | Manager, Right of Way Management, Transportation Services Toronto and East York District |
| Wards: | Toronto Centre-Rosedale – Ward 27 |
| Reference Number: | Te07028te.row |

SUMMARY

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

Transportation Services has assessed a request from the owners of 26 Whitehall Road to allow the ongoing maintenance of an existing privacy fence and gate that encroach within the public right of way on Summerhill Avenue, rear of 26 Whitehall Road.

The existing privacy fence and gate do not impact negatively on the public right of way. Staff recommend approval of this request.

RECOMMENDATIONS

Transportation Services recommends that Toronto and East York Community Council:

1. approve the ongoing maintenance of the privacy fence and gate within portions of the public right of way on Summerhill Avenue, rear of 26 Whitehall Road, 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 gate 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. obtain approval for associated work on private property from the Toronto Building Division;
 - c. remove the privacy fence and gate upon receiving 90 days written notice to do so; 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 encroachments, 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 property owner of 26 Whitehall Road submitted an application requesting permission to maintain a 2.25 m high wooden privacy fence and gate within portions of the public right of way on Summerhill Avenue, rear of 26 Whitehall Road.

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. The by-law is silent for fences at the rear of a property.

Reasons for approval

Transportation Services has reviewed the application and determined that the maintenance of the privacy fence and gate within portions of the public right of way on Summerhill Avenue, rear of 26 Whitehall Road, do not impact negatively on the public right of way. Staff have noted 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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