



**STAFF REPORT
ACTION REQUIRED**

**73 Monarch Park Avenue – Maintenance of a Shed,
Privacy Fence & Retaining Wall**

Date:	September 17, 2007
To:	Toronto and East York Community Council
From:	Manager, Right of Way Management, Transportation Services Toronto and East York District
Wards:	Toronto Danforth – Ward 30
Reference Number:	Te07066te.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 an appeal from the owner of 73 Monarch Park Avenue for the maintenance of a wooden privacy fence surmounted on a concrete block retaining wall measuring an overall height of 2.4 m to 2.5 m together with a storage shed within portions of the public right of way on the Mountjoy Avenue flank of 73 Monarch Park Avenue.

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, subject to the property owner modifies the fence adjacent to the private driveway servicing 73 Monarch Park Avenue by providing a vision splay. Therefore, Transportation Services recommends approval of the fence and block wall together with the storage shed.

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 maintenance of the storage shed and wooden privacy fence and concrete block retaining wall on the Mountjoy Avenue flank of 73 Monarch Park

Avenue, subject to the owner providing a vision splay adjacent to the driveway on the Mountjoy Avenue flank and entering into an encroachment agreement with the City of Toronto, agreeing to but not limited to the following:

- a. maintain the storage shed and 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 storage shed, 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 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 owner of 73 Monarch Park Avenue has submitted an application requesting permission to maintain a wooden storage shed together with a wooden privacy fence surmounted on a concrete retaining wall within portions of the public right of way on the Mountjoy Avenue flank of 73 Monarch Park Avenue. The fence and concrete block retaining wall have been constructed immediately back of the City sidewalk rather than the required 0.46 m setback from the sidewalk and range in height from 2.4 m to 2.5 m. In addition, the retaining wall and fence have been constructed immediately adjacent to the private driveway servicing the property.

There is an outer grassed boulevard along this portion of Mountjoy Avenue and the City sidewalk is constructed between the outer grassed boulevard and the property line.

According to the owner, the driveway is currently not in use and has and will not be used and is willing to install physical barrier to preclude anyone from using the driveway. As such, the owner is reluctant to provide a vision splay adjacent to the driveway. In the interest of public safety, this arrangement is not acceptable. To improve visibility for future use of the existing driveway, we are recommending that a portion of the fence and wall adjacent to the driveway must be modified to provide a vision splay by either:

- reducing the height of the fence together with the block retaining wall to 1 m for a distance of 1.8 m on the portion running parallel and angled to the driveway;
- altering the fence at the corner to a 45-degree angle splay from a point 1.8 m parallel and perpendicular to the driveway, or;
- removing every alternate board to a point 1.8 m parallel and perpendicular to the driveway.

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 m in height at the front of a property if they are neither hazardous nor unsightly in appearance. In addition, installations must be set back a minimum of 0.46 m from the rear edge of the City sidewalk or a minimum of 2.13 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.

In addition, there are no provisions within the former City of Toronto Municipal Code Chapter 313, Streets and Sidewalks, to allow for the maintenance of the storage shed; therefore, we are required to report to Community Council on the matter.

Reasons for approval

Transportation Services has reviewed the application and determined that the shed, privacy fence and retaining wall do not impact negatively on the public right of way, subject to the owner modifies the existing fence and retaining wall to provide the required vision splay on the portion of the fence adjacent to the driveway servicing the property, even though the overall height of the fence and retaining wall is higher than what is allowable under the Municipal Code as well as not meeting the setback requirements. 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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