



**STAFF REPORT  
ACTION REQUIRED**

**155 Sunnyside Avenue – Carport and Fence**

<b>Date:</b>	September 17, 2007
<b>To:</b>	Toronto and East York Community Council
<b>From:</b>	Manager, Right of Way Management, Transportation Services Toronto and East York District
<b>Wards:</b>	Parkdale-High Park - Ward 14
<b>Reference Number:</b>	Te07063te.row

**SUMMARY**

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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 155 Sunnyside Avenue to demolish an existing garage and construct a carport on the Garden Avenue flank, which will encroach approximately 1.83 m onto the public right of way. Of note, during the course of our review, Transportation Services has also determined that a 1.8 m high close board fence has been constructed within the public right of way of Garden Avenue without the benefit of a permit and the requisite encroachment agreement. Of note, the fence has been constructed adjacent to the private driveway entrance.

Given that these encroachments will not impact negatively on the public right of way, providing that the owners modify the existing fence that abuts the driveway entrance by providing a vision splay, Transportation Services recommends approval of the encroachments.

**RECOMMENDATIONS**

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**Transportation Services recommends that Toronto and East York Community Council:**

1. approve the request to construct a carport, a portion of which will encroach approximately 1.83 m together with the maintenance of a 1.8 m high close board fence within the public right of way on Garden Avenue flank of 155 Sunnyside

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

- a. indemnify the City from and against all actions, suits, claims or demands and from all loss, costs, damages, charges and expenses that may result from such permission granted;
  - b. modify the portion of the fence that abuts the driveway by installing a 45 degree angle splay from a point 1.8 m parallel and perpendicular to the driveway;
  - c. maintain the carport and the board fence 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;
  - d. obtain approval for associated work on private property from the Toronto Building Division;
  - e. remove the encroachments upon receiving 90 days written notice to do so;
  - f. 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 owners of 155 Sunnyside Avenue submitted an application requesting permission to demolish the existing garage and construct a carport, a portion of which will encroach approximately 1.83 m onto the public right of way of Garden Avenue.

The subject property is quite narrow and measures only approximately 4.6 m in width. Accordingly, if the owners were to reconstruct the carport to the property limits, the parking facility could only accommodate a compact or subcompact vehicle. The owner is requesting to construct a new carport to be extended onto the public right of way which would accommodate a standard vehicle. The owner has indicated that they have recently purchased a 2007 Nissan Quest minivan which exceeds more than 5.1 m in length.

It is the policy of Transportation Services not to consider encroachment applications for newly constructed building/structures and that the construction be confined totally to private property.

Furthermore, Transportation Services while investigating the owner's request has noted that a 1.8 m high close board fence has been constructed within the public right of way of Garden Avenue with a set back of 0.64 m back of the City sidewalk. In addition, the fence has been constructed abutting the existing driveway. According to available records it does not appear that a permit was issued authorizing the fence construction or an encroachment agreement for the ongoing maintenance. In order to improve sightlines for motorists using the driveway, the owners should be required to install a 45 degree vision splay from a point 1.8 m parallel and perpendicular to the driveway. In this case, the owners will be responsible for entering into an agreement with the City.

Notwithstanding this, staff have determined that the proposed carport would not impact negatively on the public right of way, provided that the fence is to be modified to provide a 1.8 m vision splay clearance from the sidewalk.

For your Committee's information, while investigating the owner's request, Transportation Services has been advised by Toronto Building that the application does not comply with the Zoning By-law No. 438-86 respecting minimum parking space requirements and therefore, the applicant will need to submit an application to the Committee of Adjustment to construct the proposed carport. Staff have notified the owners of this requirement.

## **COMMENTS**

### **Applicable regulations**

As there are no provisions within the former City of Toronto Municipal Code Chapter 313, Streets and Sidewalks, to allow the applicant to construct a carport, a portion of which will extend onto the public right of way, Transportation Services is required to report to Community Council on the matter.

The construction and maintenance of fences within the public right of way are governed under the criteria set out in Chapter 313-33 of the former City of Toronto Municipal Code, which provides for fences to be constructed to a maximum height of 1.9 m on the flank of a property and up to a 1.0 m 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.

### **Reasons for approval**

Transportation Services has reviewed the application and determined that the construction of the carport and the maintenance of the existing fence will not impact negatively on the public right of way providing that the owners modify the existing fence abutting the driveway to provide a 45 degree angle splay from a point 1.8 m parallel and

perpendicular to the driveway. In addition, the owners will be required to obtain approval from Toronto Building and satisfy any Zoning requirements for the demolition of the existing garage and the construction of the new car port prior to the issuance of a construction permit authorizing the use of the public right of way. The owners will have to enter into an encroachment agreement for the new carport and fence once the approvals have been obtained and the modifications to the fence completed.

Details of the proposed encroachments 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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Angie Antoniou  
Manager, Right of Way Management

## **ATTACHMENTS**

Appendix 'A' - photos

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