



STAFF REPORT ACTION REQUIRED

Encroachment Agreement Request 15 Feldbar Court

Date:	April 16, 2008
To:	North York Community Council
From:	District Manager, Municipal Licensing and Standards, North York District
Wards:	Ward 23 - Willowdale
Reference Number:	IBMS No. 08-102664

SUMMARY

This Staff Report is about a matter that the Community Council has delegated authority to make a final decision, provided that it is not amended so that it varies with City policy or by-laws.

The purpose of this report is to consider a request by the owner(s) of 15 Feldbar Court, being a one-family detached dwelling fourth density zone (R4) for an encroachment agreement. The existing encroachments consist of two board fences, a trellis, iron gate, hedge and a planter located on the City road allowance.

RECOMMENDATIONS

Municipal Licensing and Standards recommend that the Encroachment application be approved, subject to the following conditions:

1. That the owner(s) relocate the planter and fence located along Feldbar Court 1.0 metre behind the City sidewalk to the satisfaction of Transportation Services, North York District;
2. That the owner(s) adjust the wrought iron gate to swing inward to the satisfaction of Transportation Services, North York District;
3. The owner(s) enter into an Encroachment Agreement with the City, to the satisfaction of the City Solicitor and the Executive Director of Municipal Licensing and Standards;

4. That the appropriate City Officials be authorized to take the necessary action to give effect thereto;
5. That no claims will be made against the City by the owner(s) for damages occurring to the area of the encroachment or its elements during snow removal;
6. That the life of the Agreement be limited to 10 years from the date of registration on title or to the date of removal of the encroachment at which time, the City may consider the Agreement for further extension, if requested by the applicant;
7. The indemnification to the City by the owner(s) of the encroachment for all liability relating in any way to the encroachment and providing of an insurance policy for such liability for the lifetime of the Agreement in a form as approved by the City Solicitor, in an amount no less than \$2,000,000.00 or such greater amount as the City Solicitor may require;
8. In the event of sale or transfer of the property abutting the encroachment, Legal Services be authorized to extend the Encroachment Agreement to the new owner, subject to the approval of the Executive Director of Municipal Licensing and Standards;
9. The owner(s) pay the following fees:
 - a. Application fee of \$463.31 (paid).
 - b. Legal Administration Cost and Registration on Title, plus disbursements, including G.S.T.
 - c. One-time fee of \$441.25 plus G.S.T., totalling \$463.31.

FINANCIAL IMPACT

There is no financial impact anticipated resulting from the adoption of this report.

DECISION HISTORY

The application was received from the property owner(s) in January 2008 and was circulated to Transportation Services and the following Utilities: Enbridge, Bell Canada, Cable and Hydro.

ISSUE BACKGROUND

The encroachments on the City road allowance are as follows:

- (a) A wood board fence located on the flankage yard at the north-east side of the property varies between 6.91 metres to 8.49 metres into the road allowance for a distance of 21.94 metres at a height of 2.0 metres. The fence continues along the front yard of Feldbar Court for a distance of 12.30 metres and is located 0.58 metres behind the City sidewalk.

- (b) A wood fence located on the flankage yard at the south-east side of the property varies between 5.64 metres to 6.44 metres into the road allowance for a distance of 9.75 metres at a height of 2.0 metres.
- (c) A trellis located on the flankage yard over the wrought iron gate 4.8 metres long and 2.8 metres high.
- (d) An iron gate located between the two wooden fences varies between 5.45 metres to 5.83 metres into the road allowance of Bayview Avenue for a distance of 4.8 metres long and a height of 1.8 metres.
- (e) A hedge located on the front yard at the west side of the property that extends approximately 1.2 metres into the road allowance.
- (f) A planter located on the front yard between the circular driveway that is abutting the City sidewalk.
- (g) A garden shed measuring 0.93 metres squared located in the south-east flankage yard.

COMMENTS

Utilities have provided clearance letters indicating that they have no objection.

Transportation Services, North York District staff, as part of their review, have indicated that the planter and fence located along Feldbar Court be relocated to 1.0 metre behind the City sidewalk. In addition, Transportation Services, North York District staff, as part of their review have indicated that the wrought iron gate be adjusted to swing inwards.

CONTACT

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SIGNATURE

Bryan Byng, District Manager
Municipal Licensing and Standards
North York District

ATTACHMENTS

1. Survey
2. Photographs