

**Encroachment Agreement Request
252 Dawlish Avenue**

Date:	August 18, 2008
To:	North York Community Council
From:	District Manager, Municipal Licensing and Standards, North York District
Wards:	Ward 25 - Don Valley West
Reference Number:	IBMS No. 06-185218

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 252 Dawlish Avenue, being a one-family detached dwelling third density zone (R3) for an encroachment agreement. The existing encroachment consists of a heated asphalt driveway with stone banding, concrete retaining wall, rockery retaining wall, stone retaining wall, lighting, sprinkler system and natural stone banding on the City road allowance.

RECOMMENDATIONS

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

1. That the owner(s) remove the retaining walls back 2.13 metres from the edge of the roadway, to the satisfaction of Transportation Services, North York District;
2. That the owner(s) remove the sprinklers back 0.45 metre from the edge of roadway, to the satisfaction of Transportation Services, North York District;
3. That 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 all applicable fees.

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 October 2006 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) Heated asphalt driveway with stone banding at edges;
- (b) Concrete retaining wall on west side of the driveway measures 2.74 metres in length, 0.58 metre in height and 0.31 metre in width;
- (c) Rockery retaining wall west side of driveway measures 2.40 metres long from the concrete retaining wall towards the roadway;
- (d) Stone retaining wall on east side of driveway measures 4.60 metres in length, 0.17 metre in height and 0.07 metre in width;
- (e) Lighting near boxwoods west side of driveway;

- (f) Sprinklers near to stone banding along road pavement;
- (g) Stone banding along edge of pavement.

COMMENTS

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

Transportation Services, North York District staff, as part of the review, have indicated that the retaining walls be moved back 2.13 metres from the edge of the roadway and the sprinklers be removed to 0.45 metre from the edge of the roadway.

CONTACT

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SIGNATURE

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

ATTACHMENTS

1. Site Plan
2. Survey