

**Encroachment Agreement Request
435 Brookdale Avenue**

Date:	October 23, 2008
To:	North York Community Council
From:	District Manager, Municipal Licensing and Standards, North York District
Wards:	Ward 16 - Eglinton-Lawrence
Reference Number:	IBMS No. 07-101850

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 435 Brookdale Avenue, being a one-family detached dwelling fourth density zone (R4) for an encroachment agreement. The existing encroachment consists of a stone retaining wall, rock retaining wall, and garden with two pine trees 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 rock retaining wall abutting the city curb be removed and replaced with soil and sod, to the satisfaction of Transportation Services, North York District;
2. 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;
3. That the appropriate City Officials be authorized to take the necessary action to give effect thereto;

4. 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;
5. 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;
6. 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;
7. 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;
8. 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 January 2007 and was circulated to Transportation Services, Parks, Forestry and Recreation Division and the following utilities: Enbridge, Bell Canada, Cable and Hydro.

ISSUE BACKGROUND

The encroachments on the City road allowance are as follows:

- (a) Stone retaining wall located at west side of driveway measuring 0.60 metre in height and extends 3.6 metres into the road allowance;
- (b) Rock retaining wall measuring 0.24 metres in height and abuts the city curb for a distance of 3.50 metres and projects 1.60 metres towards the front lot line;
- (c) Garden and two pine trees are surrounded by the rock retaining wall.

COMMENTS

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

Parks, Forestry and Recreation Division indicated that they have no objection.

Transportation Services, North York District staff, as part of the review, have indicated that the rock retaining wall abutting the city curb be removed and replaced with soil and sod.

CONTACT

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SIGNATURE

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

ATTACHMENTS

1. Survey
2. Photographs