



STAFF REPORT ACTION REQUIRED

Residential Demolition Application for 21 Weybourne Crescent

Date:	December 15, 2008
To:	Chairman and Members, North York Community Council
From:	Director of Building and Deputy Chief Building Official
Wards:	Ward 25, Don Valley West
Reference Number:	File No: 2008 NY 0029 Building Permit No. 08 - 219190 DEM 00 DM

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 from City policy or by-laws.

In accordance with section 33 of the Planning Act and the Toronto Municipal Code Chapter 363, Article II "Demolition Control" the application for the demolition of a residential dwelling, at 21 Weybourne Crescent, is referred to the North York Community Council for consideration of the issuance of a demolition permit because the property is located in the former City of Toronto and a notice of objection to the issuance of demolition permit was submitted by a neighbour to the Deputy Building Official received within 14 days of the posting of the Public Notice of the Proposed Residential Demolition.

The owner requires permission to demolish the existing building in order to construct a new two storey single family dwelling.

If the North York Community Council grants issuance of the demolition permit, it may do so with or without conditions.

RECOMMENDATIONS

Toronto Building, North York District recommends that:

1. The request for the demolition of this residential dwelling only be approved subject to following conditions:

- a. The owner construct and substantially complete the new building, authorized by building permit file number 08 - 219182 BLD 00 NH, on the site of the building to be demolished by not later than two (2) years from the day the demolition is commenced;
- b. The failure to complete the construction within the time specified, shall entitle the City Clerk to enter on the collector's roll, to be collected in like manner as municipal taxes, the sum of twenty-thousand dollars (\$20,000.00) for the dwelling unit in respect of which a demolition permit is issued, and that such sum shall, until payment, be a lien or charge upon the land in respect of which the permit to demolish the residential property is issued;
- c. All debris and rubble be removed immediately after demolition; and
- d. The site be maintained free of garbage and weeds, in accordance with the Municipal Code Chapter 623 – 5 and 629 – 10, Paragraph B.

Financial Impact

There are no financial implications resulting from the adoption of this report.

DECISION HISTORY

The owner of the property municipally known as 21 Weybourne Crescent is proposing to demolish the existing two storey detached house and replace it with a new two storey single family dwelling. Refer to the zoning map and a survey included in Attachments #1 and #2.

The owner applied to the Committee of Adjustment (C. of A.) to request a variance from the provisions of Toronto Zoning By-law 438-86 requesting a proposed gross floor area of 362.32m² where a maximum gross floor area of 190.43m² (.35 times the area of the lot) is permitted. The C. of A. public hearing was held and the Committee refused the minor variance application.

The C. of A. decision was appealed to the OMB. As a result of discussions with some of the residents, the Counsel for the appellant requested an amended variance where the new dwelling will have a gross floor area equal to 0.646 times the area of the lot (351.6 m²).

On September 8, 2008, the Order of the OMB was issued allowing the appeal and authorizing the minor variance subject to the condition: *“that the home to be constructed be substantially in accordance with the plans prepared by Peter Higgins, Architect, being a site plan dated May 06, 2008, and four Building Elevations Plans dated May 06, 2008 and found at Exhibit 26 in the Board file”*

ISSUE BACKGROUND

In accordance with the requirements of the City of Toronto Municipal Code Chapter 146, Article II “Demolition Control” a public notice of the proposed residential demolition was posted on the property for a period of at least 14 days following the application of the demolition permit.

The Director and Deputy Chief Building Official in the North York District received a written objection to the proposed demolition. The objection is based on the concerns of the neighbour at 35 Dinnick Crescent over the demolition of the existing house at #21 Weybourne Crescent. The neighbour expressed two areas of concerns:

1. *“The protection of the following landscaping along the adjoining property line: an apple tree and hedge at front eastward; a privacy fence on the same line as well as two locust trees whose branches cross this line as well as a cedar hedge at the centre; and*
2. *The encroachment of the garage at 35 Dinnick Crescent which has been extended to accommodate full size cars. The extension encroaches on the property at 21 Weybourne Crescent and the encroachment varies between 6 inches and 12 inches. The owner of 35 Dinnick Crescent is requesting that this encroachment be protected as a condition of the issuance of the demolition permit”.*

After receipt of the notice of objection, Toronto Building staff contacted both the property owners and the complainant trying, with no success, to resolve issues related to the neighbour’s objection. The property owners have claimed repeatedly that they have attempted unsuccessfully to reach an agreement with the neighbour at 35 Dinnick Crescent.

The City of Toronto Municipal Code [Chapter 363, Article II “Demolition Control” Subsection C (4) (c)] requires that applications for demolition be referred to Community Council for consideration, if written objection notices respecting the issuance of demolition permits are received within 14 days of the posting.

COMMENTS

This submission to NYCC is for the demolition of the existing two storey single family dwelling. Building permit applications to demolish the existing house and to construct the new two storey single family dwelling were made on November 5, 2008. Under Section 8 of the Building Code Act the Chief Building Official shall issue a building permit once the proposal is found to be in compliance with the Building Code Act, the Building Code and applicable law. No permits have been issued for this property as of the date of this report but upon completion of Toronto Building review of the application to construct the single family dwelling the Chief Building Official will issue the building permit for 21 Weybourne Crescent as stipulated in the Building Code Act.

Section 33 of the Planning Act states that:

- *“Where application is made to the Council for a permit to demolish residential property, the Council may issue the permit or refuse to issue the permit”,*
- *“The council shall, on application therefor, issue a demolition permit where a building permit has been issued to erect a new building on the site of the residential property sought to be demolished”, and*
- *“Where the council refuses to issue the permit or neglects to make a decision thereon within thirty days after the receipt by the clerk of the municipality of the application, the applicant may appeal to the Municipal Board and the Board shall hear the appeal and either dismiss the same or direct that the demolition permit be issued, and the decision of the Board shall be final”.*

The application for the demolition of the existing dwelling unit was circulated to the Heritage Preservation Services, Urban Forestry and the Ward Councillor. Toronto Building received clearance from Urban Forestry (City and private trees) and the existing dwelling is not listed and/or designated under the Ontario Heritage Act.

CONTACT

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SIGNATURE

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North York District

ATTACHMENTS

Attachment 1: Zoning Map
Attachment 2: Property Survey