



STAFF REPORT ACTION REQUIRED

Encroachment Agreement Request 89 Grey Road

Date:	March 31, 2009
To:	North York Community Council
From:	District Manager, Municipal Licensing and Standards, North York District
Wards:	Ward 16 - Eglinton-Lawrence
Reference Number:	IBMS No. 08-200057

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 subject matter is an application for an encroachment agreement.

RECOMMENDATIONS

1. Municipal Licensing and Standards has not received the necessary clearances to recommend that the Encroachment application be approved.

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 September 2008 and was circulated to Transportation Services and Bell Canada.

ISSUE BACKGROUND

This single family detached home is in a fourth density residential (R4) zone located on the northeast corner of Grey Road and Melrose Avenue (*Attachments 1 and 2*).

In May 2008 a complaint was received regarding the height of the hedges on this property. The investigation by the Municipal Licensing and Standards Officer revealed

that an encroachment agreement was approved with the current owner(s) in May 1993 by the former City of North York. That agreement (*Attachment 3*) was for the standard period of ten years and had thus expired. This agreement did specify that the hedges on the property could be a maximum of 2.4 metres (*Attachment 4*). As a result of the investigation the owner(s) applied for a new encroachment agreement in September 2008.

The current encroachment is substantially the same as listed in the agreement attached dated May 25, 1993. It consists of hedges approximately 2.4 metre in height beside the driveway and enclosing the rear yard, the same type of hedging along Melrose Avenue and wrought iron fencing approximately 1.2 metres in height along the front of the property facing Grey Road (*Attachments, 5 - 10*).

COMMENTS

Bell Canada had an objection to the utility box being enclosed by fencing and hedges.

Transportation Services, Road Operations, North York District staff, as part of their review, have indicated that the encroachment is a winter and sight obstruction and have not approved the application.

Should the recommendation not be accepted and the request approved, the conditions of approval should include:

1. That the hedges and/or fencing be removed so as to not encumber the Bell utility box at the corner of Melrose Avenue and Grey Road subject to the approval of Bell Canada;
2. The hedges on the southwest corner of Melrose Avenue and Grey Road be trimmed and maintained at a height of 0.68 metres above ground level for a distance of 5 metres in both directions;
3. The hedges on the south side of the driveway be trimmed and maintained at a height of 0.68 metres for a distance of 3 metres along the driveway and along Grey Road;
4. 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;
5. That the appropriate City Officials be authorized to take the necessary action to give effect thereto;
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. 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;
8. 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;
9. 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;
10. The owner(s) pay all applicable fees.

CONTACT

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SIGNATURE

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

ATTACHMENTS

1. Aerial view
2. Zoning map
3. Previous encroachment agreement
4. Survey sketch of encroachment
5. Photograph – front of house
6. Photograph – from Melrose Avenue looking north
7. Photograph – from Grey Road looking south at intersection
8. Photograph – garage north end of property
9. Photograph – looking south from driveway on Grey Road
10. Photograph – south side of driveway looking towards Grey Road