



STAFF REPORT ACTION REQUIRED

Encroachment Agreement Request 34 Beechwood Avenue

Date:	March 31, 2009
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. 07-109665

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

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

1. 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;
2. That the appropriate City Officials be authorized to take the necessary action to give effect thereto;
3. 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;
4. 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;

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. 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;
7. 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 June 2008 and was circulated to Transportation Services and the following Utilities:- Enbridge, Bell Canada, Cable and Hydro.

ISSUE BACKGROUND

This single family detached home is in a third density (R3) zone located on the northwest corner of Beechwood Avenue and Highland Crescent (*Attachments 1 and 2*).

The existing encroachment (*Attachment 9*) consists of the following items:-

1. Stone steps and walkway off of Beechwood Avenue (*Attachment 3*);
2. A board-on-board fence in the flankage yard off Highland Crescent that is approximately 1.7 metres in height. This fence extends into the right-of-way approximately 2.7 metres from the rear of the house (*Attachment 4*), continues back approximately 16 metres to the driveway (*Attachment 5*) and continues as a wrought iron fence (*Attachment 6*) along the driveway to the garage;
3. A large-hole lattice fence along the north lot line that extends into the right-of-way approximately 2.7 metres and is approximately 2 metres in height (*Attachment 8*); and
4. Ten (10) mature trees located along Highland Avenue and Beechwood Crescent (*Attachments 3-7*).

The amount of right-of-way enclosed by the rear/flankage yard fencing is approximately 43 square metres (*Attachment 9*).

COMMENTS

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

Transportation Services, North York District staff, as part of their review, did indicate that they wanted a large flat rock that was part of the walkway removed, the walkway to the roads edge removed and the sprinkler system removed. All of those conditions were complied with.

CONTACT

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SIGNATURE

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

ATTACHMENTS

1. Zoning map
2. Aerial view
3. Photograph of stone steps
4. Photograph of fence south side
5. Photograph of fence in flankage yard
6. Photograph of fence north side
7. Photograph of trees in front and side yards
8. Photograph lattice fence on north lot line
9. Survey of property and existing encroachment