

## **Encroachment Agreement Request 20 Muircrest Drive**

<b>Date:</b>	April 27, 2009
<b>To:</b>	North York Community Council
<b>From:</b>	District Manager, Municipal Licensing and Standards, North York District
<b>Wards:</b>	Ward 34 - Don Valley East
<b>Reference Number:</b>	IBMS No. 08-230443

### **SUMMARY**

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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**

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**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. That the owner(s) ensure that any work undertaken on the encroachment does not damage the underground television and telephone cables;

5. 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;
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. 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**

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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 November 2008 and was circulated to Transportation Services and the following Utilities: Enbridge, Bell Canada, Cable and Hydro.

The owner(s) lowered their driveway in connection with a 2002 building permit for an addition to their house that included a garage.

## **ISSUE BACKGROUND**

This detached house was built in 1958, in a fourth density residential (R4) zone (*Attachment 1*).

The encroachment consists of a stone retaining wall on both sides of the driveway (*Attachments 3 and 4*).

## **COMMENTS**

Both Rogers Cable and Bell Canada indicated that they have buried cable in the area of the encroachment. The other utilities have provided clearance letters indicating that they have no objection.

Transportation Services, North York District staff, as part of their review, have indicated that they have no objections to the encroachment.

**CONTACT**

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**SIGNATURE**

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

**ATTACHMENTS**

1. Zoning map
2. Site plan sketch and details
3. Photograph existing encroachment from street
4. Photograph existing encroachment view east