



STAFF REPORT ACTION REQUIRED

Encroachment Agreement Request 52 Keswick Road

Date:	August 27, 2009
To:	North York Community Council
From:	District Manager, Municipal Licensing and Standards, North York District
Wards:	Ward 9 - York Centre
Reference Number:	IBMS No. 09-135342

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:

- 1. The North York Community Council approve the encroachment agreement for 52 Keswick Road, subject to the following conditions:**
 - a) That the owner(s) not locate the fence any closer than 45 centimeters from the edge of the sidewalk;
 - b) That the owner(s) relocate the fence to the satisfaction of the Urban Forestry division of the City of Toronto;
 - c) That the patio stones in front of the front door entrance off Keswick Road be included in the agreement;
 - d) That the owner(s) redesign the fence so that is constructed of open-mesh chain-link or of an equivalent open-fence construction for at least 2.4 meters from the lot line of 35 Gilley Road to the satisfaction of Municipal Licensing and Standards and the Transportation division of the City of Toronto;
 - e) 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;

- f) That the appropriate City Officials be authorized to take the necessary action to give effect thereto;
- g) 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;
- h) 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;
- i) 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;
- j) 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;
- k) 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 May 2009 and was circulated to Transportation Services, Urban forestry and the following Utilities: Enbridge, Bell Canada, Cable and Hydro.

An inspection of the property by a Municipal Licensing and Standards officer on August 26, 2009 found that no construction had taken place.

ISSUE BACKGROUND

This single family detached home constructed in 2002 is in a fourth density residential (R4) zone located on the southwest corner of Gilley Road and Keswick Road in the former City of North York (*Attachments 1 and 2*).

The proposed encroachment (*Attachment 3*) consists of a cedar lattice wood frame and brick post fence along the north property line parallel to the sidewalk. The proposed location of the fence from the sidewalk is 45 centimeters along the length of the fence. The fence posts will be approximately 2 meters in height and the wood sections will be

approximately 1.72 meters in height with spacing of 2.5 meters on centre (*Attachments 4, 5, 6 and 7*).

The amount of right-of-way enclosed by this front yard fencing will be approximately 38.8 square metres.

COMMENTS

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

Transportation Services, North York District staff, as part of their review, indicated they wanted the fence to be 45 centimeters behind the sidewalk and that the patio slabs by the front door should be included in the agreement.

Urban Forestry does not approve of the proposed location of the fence because of the close proximity to the existing four (4) City trees.

This proposed front yard fence if installed on the owner(s) property would then be subject to the fence bylaw and would require a fence exemption as a front yard fence. A fence in the front yard is limited to 1.2 meters in height. The proposed fence even on the owner(s) property would also be within 2.4 meters of the driveway for 35 Gilley Road and would then be required to be open mesh chain-link, or of an equivalent open-fence construction for at least 2.4 meters from the lot line at which the driveway begins so as to not obstruct the view of the boulevard or highway. The proposed cedar lattice brick post fence is not an equivalent open-fence design.

CONTACT

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SIGNATURE

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

ATTACHMENTS

1. Zoning map
2. Aerial view of 52 Keswick Road
3. Site plan, fence elevation and detail for 52 Keswick Road
4. Photograph from driveway 35 Gilley Road
5. Photograph of front entrance off 52 Keswick Road
6. Photograph at corner of Gilley and Keswick
7. Photograph facing south to front yard of 52 Keswick Road