

**Encroachment Agreement Request
346 Broadway Avenue**

Date:	August 25, 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. 09-141754

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 346 Broadway Avenue, subject to the following conditions:**
 - a) That the owner(s) at their own expense obtain the necessary clearance from the gas utility company before commencing construction of the encroachment;
 - b) 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;
 - c) That the appropriate City Officials be authorized to take the necessary action to give effect thereto;
 - d) 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;

- e) 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
- f) 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;
- g) 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;
- h) The owner(s) pay all applicable fees.

FINANCIAL IMPACT

There is no financial impact anticipated resulting from the adoption of this report.

DECISION HISTORY

This application was received from the property owner(s) in April 2009 and was circulated to Transportation Services, Urban Forestry and the following Utilities: Enbridge, Bell Canada, Cable and Hydro.

A previous encroachment consisting of two retaining walls, wrought iron guards and landscaping was passed at North York Community Council on April 8, 2008 and registered on July 30, 2008 as instrument number AT1849198.

ISSUE BACKGROUND

This single family detached home is in a seventh density (R7) zone located on the northeast corner of Walder Avenue and Broadway Avenue (*Attachments 1 and 2*).

The proposed encroachment (*Attachment 3*) consists of fencing that will form part of the enclosure for the rear yard and that fence will extend into the right-of-way along Walder Avenue (*Attachment 4*). This fencing will have a 30-centimeter stone base with vertical board-on-board construction on top of the base and it will be approximately 2 metres in height in total. The encroachment will also consist of approximately nine (9) white cedars placed inside the fence with an installation height of 1.8 metres.

The amount of right-of-way enclosed by the rear/flankage yard fencing will be approximately 29.13 square metres (*Attachments 5 and 6*).

COMMENTS

Cable, Hydro and Bell provided clearance letters indicating that they have no objection.

A letter was sent to Enbridge Gas, which included the site plan and landscape design, on April 24, 2009 (*Attachment 7*). This letter requested that they review the plans and note any objections in writing within 21 days. This letter also stated that if a reply was not received within 21 days, Municipal Licensing and Standards would assume that they had no objections to the encroachment. Municipal Licensing and Standards did not receive a reply from Enbridge Gas.

Transportation Services, North York District staff, as part of their review, indicated that they want the driveway grade on site to duplicate site plan specifications.

CONTACT

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SIGNATURE

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

ATTACHMENTS

1. Zoning map
2. Survey of 346 Broadway Ave
3. Site Plan of rear yard of 346 Broadway Ave
4. Fence relief Diagrams
5. Photograph of rear yard from Walder Ave
6. Photograph facing north from Broadway Avenue
7. Letter to Enbridge Gas