

**Encroachment Agreement Request
100 Gordon Road**

Date:	September 23, 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. 09-140224

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 100 Gordon Road, subject to the following conditions:**
 - a) That the owner(s) maintain the bushes/hedges/trees to the satisfaction of Transportation Services Division so that they do not obstruct the view of the speed limit sign on Seneca Street;
 - 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

The application for an existing encroachment was received from the property owner(s) in May 2009 and was circulated to Transportation Services, Urban Forestry and the applicable utilities.

ISSUE BACKGROUND

This single family detached home is in a residential third density (R3) zone located in the former City of North York (*Attachments 1 and 2*).

The existing encroachment consists of fencing in the rear yard, stone steps/walkway in the side yard and hedges/trees in the rear flankage yard (*Attachments 3, 4 and 5*). There is a stone walkway with six (6) steps beside the driveway to a house entrance on Seneca St. This walkway connects to the front yard through right-of-way. The board-on-board fence is approximately 2 metres in height and it is located in the rear yard/flankage yard facing Seneca Street. The fence is approximately 29 metres in length; it starts 2 metres from the property line reducing to 0.1 metres from the property line 1 metre past the rear property line. This encloses approximately 29 square metres of right-of-way and the fence forms part of the pool enclosure. Hedges, bushes and trees cover most of the rear flankage yard outside of this fence.

COMMENTS

Utilities and Urban Forestry have provided clearances letters indicating that they have no objections.

Transportation Services, Road Operations, North York District staff, as part of their review, have indicated that the owner(s) must maintain the existing bushes/hedges/trees on Seneca Street so that they do not obstruct the view of the speed limit sign (*Attachment 6*).

CONTACT

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SIGNATURE

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

ATTACHMENTS

1. Zoning map
2. Survey plan of 100 Gordon road
3. Photograph facing north from Gordon Road
4. Photograph facing north on Seneca St
5. Photograph opposite driveway on Seneca St
6. Photograph facing south on Seneca St