

**Encroachment Agreement Request
37 Brookfield 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. 09-135096

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 37 Brookfield Road, subject to the following conditions:**
 - a) 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;
 - b) That the appropriate City Officials be authorized to take the necessary action to give effect thereto;
 - c) 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;

- d) 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;
- e) 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;
- f) 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;
- g) 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 January 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*). It is a corner lot on the southwest corner of Brookfield Road and Plymbridge Crescent. Note that there are no curbs or sidewalks around 37 Brookfield Road.

The existing encroachment consists of one row of board-on-board/lattice panel fencing approximately 2 metres in height, two large decorative stones and a row of trees that are in front of this fence (*Attachments 3 and 4*). The fencing is along the length of the east property line 2.9 metres from the property line and 3.6 metres from the edge of the pavement. There are two walkways of interlocking stone with gates that swing inwards along this fence line.

COMMENTS

Utilities have provided clearances letters indicating that they have no objections. Urban Forestry has no objections. Transportation Services, Road Operations, have no objection.

CONTACT

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SIGNATURE

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

ATTACHMENTS

1. Zoning map
2. Site plan 37 Brookfield Road.
3. Photograph facing south on Plymbridge Cres.
4. Photograph facing east on Brookfield Rd.