



STAFF REPORT ACTION REQUIRED

Fence – 217 Sorauren Avenue

Date:	January 20, 2009
To:	Toronto and East York Community Council
From:	Manager, Right of Way Management, Transportation Services Toronto and East York District
Wards:	Parkdale-High Park - Ward 14
Reference Number:	Te09001te.row

SUMMARY

This staff report is about a matter which Community Council has delegated authority from City Council to make a final decision.

Transportation Services has assessed a request from the owner of 217 Sorauren Avenue to allow the maintenance of a two section divisional closed board wooden fence with respective heights and lengths of approximately 1.5 m and 2.3 m, and 1.9 m and 2.2 m, together with a step, toe wall and air conditioner enclosure that encroach within the public right of way fronting 217 Sorauren Avenue.

Although the fence exceeds the maximum allowable height requested under the Municipal Code, and the fence, step and toe wall do not meet the required setback, these encroachments do not impact negatively on the public right of way. Transportation Services has no objections to their maintenance provided that the section of fence that is 2.3 m in height be lowered to 1.7 m in keeping with the height of the window of neighbouring 219 Sorauren Avenue.

The owners together with any interested parties will be given an opportunity to make a deputation before Community Council.

RECOMMENDATIONS

Transportation Services recommends that Toronto and East York Community Council:

1. approve the maintenance of the two section divisional closed board wooden fence together with a step, toe wall and air conditioner enclosure within the public right of way fronting 217 Sorauren Avenue, subject to the property owner entering into an encroachment agreement with the City of Toronto, agreeing to but not limited to the following:
 - a. indemnify the City from and against all actions, suits, claims or demands and from all loss, costs, damages and expenses that may result from such permission granted;
 - b. lower the fence adjacent to the house that is 2.3 m in height by 0.6 m to an overall height of 1.7 m in keeping with the height of the window of neighbouring 219 Sorauren Avenue;
 - c. maintain the encroachments at his/her own expense in good repair and a condition satisfactory to the General Manager of Transportation Services and will not make any additions or modifications to the encroachment beyond what is allowed under the terms of the Agreement;
 - d. remove the encroachments upon receiving 90 days written notice to do so; and
 - e. accept such additional conditions as the City Solicitor or the General Manager of Transportation Services may deem necessary in the interest of the City; and
2. direct Legal Services and/or the General Manager of Transportation Services to extend the Encroachment Agreement to the new owner, in the event of sale or transfer to the property abutting the encroachment, subject to the approval of the General Manager of Transportation Services.

Financial Impact

There is no financial impact to the City as a result of this report.

ISSUE BACKGROUND

An application has been received from the property owner of 217 Sorauren Avenue requesting permission to maintain a two section divisional closed board wooden fence with respective heights and lengths of approximately 1.5 m and 2.3 m, and 1.9 m and 2.2 m, together with a step, a 0.27 m high wooden toe wall and an air conditioner enclosure that encroach within the public right of way fronting 217 Sorauren Avenue. The fence is situated 0.2 m back of the City sidewalk and runs perpendicular to the sidewalk dividing 217 and 219 Sorauren Avenue.

During the course of this application we have received complaints from the neighbours at 219 Sorauren Avenue regarding the newly constructed fence. According to the neighbours, the fence obstructs the view of the street from the main front window, and

has resulted in reduced visibility to the area surrounding their home. Site inspection reveals that the portion of the fence immediately adjacent to the building is 2.3 m in height and exceeds the height of the window of 219 Sorauren Avenue at its lowest point by approximately 0.6 m.

Under the circumstances, it may be appropriate to have the owner of 217 Sorauren Avenue lower the portion of the fence to 1.7 m in height in keeping with the height of the window.

COMMENTS

Applicable regulation

The construction and maintenance of fences within the public right of way are governed under the criteria set out in the former City of Toronto Municipal Code Chapter 313-33, which provides for fences to be constructed to a maximum height of 1.9 m on the flank of a property and up to 1.0 m in height in front of a property if they are neither hazardous nor unsightly in appearance. In addition, all encroachments must be set back 0.46 m from the rear edge of the City sidewalk or a minimum of 2.1 m from the curb where no sidewalk is present.

Encroachments such as steps and toe walls within the public right of way are governed under the criteria set out in the former City of Toronto Municipal Code Chapter 313-50, which allows their maintenance provided that they are set back 0.46 m from the rear edge of the City sidewalk.

As there are no provisions within the Municipal Code for air conditioner enclosures within the public right of way, we are required to report to Community Council on this matter.

Reasons for approval

Transportation Services has reviewed the application and determined that the encroachments are neither hazardous nor do they impact negatively on the public right of way fronting 217 Sorauren Avenue.

Details of the encroachments are on file with Transportation Services.

Photos of the property are shown on Appendix 'A'.

CONTACT

Ken McGuire, Supervisor, Right of Way Management
Tel: 416-392-7894, Fax: 416-392-7465, E-mail: kmcguire@toronto.ca

SIGNATURE

Angie Antoniou
Manager, Right of Way Management

ATTACHMENTS

Appendix 'A' – photos

P:\2009\Cluster B\TRA\Toronto and East York\row\te09001te.row - gmh