



## STAFF REPORT ACTION REQUIRED

### Circular Driveway – 44 Old Forest Hill Road

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| <b>Date:</b>             | March 9, 2009   |
| <b>To:</b>               | Toronto and East York Community Council   |
| <b>From:</b>             | Manager, Right of Way Management, Transportation Services<br>Toronto and East York District |
| <b>Wards:</b>            | St. Paul's – Ward 22  |
| <b>Reference Number:</b> | Te09028te.row   |

#### SUMMARY

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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 agent of the owner of 44 Old Forest Hill Road to permit the maintenance of a circular driveway and the construction of a ramp to service the circular driveway within the public right of way fronting 44 Old Forest Hill Road.

Transportation Services has reviewed the proposal and does not recommend approval as it does not meet the guidelines established by Transportation Services for the construction of circular driveways as affecting the public right of way.

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

#### RECOMMENDATIONS

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**Transportation Services recommends that Toronto and East York Community Council:**

1. deny the owner's request to permit the maintenance of the portion of the driveway forming part of a circular driveway within the public right of way fronting 44 Old Forest Hill Road;

2. deny the owner's request for the ramp installation to service the circular driveway; and
3. require the owner to restore the portion of the driveway forming part of the driveway that does not provide access to the existing garage within the public right of way to soft landscaping.

### **Financial Impact**

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

### **ISSUE BACKGROUND**

Transportation Services became aware that a portion of the public right of way fronting 44 Old Forest Hill Road had been paved to form part of a circular driveway without prior approval and the benefit of a requisite construction permit. A notice was left at the property advising the owner of this. Furthermore, the owner was advised that they could make an application for further consideration; however, the application should be directed to the Committee of Adjustment. As a result of the notice being issued, the owner proceeded to file for a Preliminary Zoning Review to determine whether any minor variances to the by-law were required to legalize the existing circular driveway. Subsequent to this, the owner received a Notice of Zoning By-law Compliance letter confirming that the circular driveway did not require any minor variances. Of note, the plans that were submitted to the Committee of Adjustment at the time clearly indicated that the circular driveway was solely confined to the public right of way. The Committee of Adjustment deals solely with matters that pertain to the use of private property. It was the Committee's position that given that the proposed driveway was not on private property, Committee of Adjustment approval is not required. Once the zoning compliance was received, the owner proceeded to file an application with Transportation Services for the construction of the driveway.

The applicant was subsequently advised that inspection confirmed that a portion of the arch of the driveway had been constructed within the public right of way and; therefore, did not comply with Transportation Services guidelines.

Transportation Services has now received a letter of appeal from the solicitor for the owner of the property requesting consideration for the circular driveway to remain. In support of the application the solicitor has advised that their client had previously applied to the Committee of Adjustment for a minor variance application to construct a garage with a front yard setback of 1.0 m from the front yard property line, which minor variance was refused by the Committee on March 9, 2005. The refusal was appealed to the Ontario Municipal Board and prior to the OMB hearing, the appellant and the City reached a settlement agreement, which was presented to the Board. Based on the settlement agreement, the Board issued a Decision on August 5, 2005 approving the proposed garage and related minor variances.

After the construction of the new garage was completed, their client proceeded to construct a private driveway to the entrance to the new garage; however, due to unsafe

conditions with their client backing out onto Old Forest Hill Road, a circular driveway was installed at that time, which was located completely within the City boulevard. The circular driveway allows the owners to enter and exit the property in a forward moving motion, thereby increasing the level of safety for entering and exiting the residence.

The solicitor goes on to say that the existing circular driveway cannot meet the City's design guidelines due to physical constraints such as width of the lot, plus there is an extremely large City boulevard which contains the circular driveway, therefore, their client is technically not providing the circular driveway on private property. The solicitor feels that despite his client not meeting the City's design guidelines, the circular driveway operates efficiently and has been providing a safe entrance/exit to the property for a number of years with no conflicts whatsoever to the design of the driveway.

## **COMMENTS**

### **Applicable regulation**

There are no provisions within the former City of Toronto Municipal Code, Chapter 313, Streets and Sidewalks to provide for the construction of circular driveways. Similarly, there are no provisions within the Zoning By-law No. 438-86, as amended to permit circular driveways with respect to the use of private property. However, an applicant may make application to the Committee of Adjustment for the purpose of seeking relief from the provisions of the zoning by-law. It has been Transportation Services policy to give consideration to applications to create circular driveways within the public right of way providing a variance from the zoning by-law must be obtained from the Committee of Adjustment prior to Transportation Services giving consideration to such applications. In addition, there are some additional requirements that an applicant must satisfy before Transportation Services can give further consideration to these applications amongst which include the following:

- the lot must be greater than 15.24 m (50 feet) wide;
- the arch of the driveway must be confined to private property;
- one leg of the driveway must be connected to a driveway that leads to a parking facility on private property;
- no leg of a circular driveway should be closer than 15 m from an intersection;
- an 8 m minimum distance of separation is provided between the inner ends of the circular driveway (this is to confirm the turning radius is adequate);
- each leg must intersect the sidewalk or roadway at right angles;
- a minimum 50% landscaped open space is maintained on private property;
- a minimum distance of 8 m is maintained from the back edge of sidewalk to the nearest obstruction;
- a minimum distance of 11.3 m is maintained from the roadway to the nearest obstruction; and
- meet all zoning requirements.

### **Reasons for not approving**

The property does not comply for the following reasons:

- the lot is 13.54 m (44.44 feet) wide;
- a 6 m separation distance is provided between the inner ends of the circular driveway; and
- the arch of the circular driveway is within the public right of way; and
- the minimum clearances measured from the edge of the roadway to the nearest obstruction cannot be complied with.

Having regard that the application does not meet the established guidelines, Transportation Services recommends that the owner's appeal to allow the maintenance of the circular driveway be denied together with the ramp installation. In addition, the owner should be requested to restore the portion of the driveway that does not form part of the driveway that leads to the garage servicing 44 Old Forest Hill Road to its former grassed condition.

Details of the proposal are on file with Transportation Services.

A photo of the property is shown on Appendix 'A'.

### **Alternate Recommendations**

Should the Toronto and East York Community Council decide to grant approval for the maintenance of the circular driveway within the public right of way fronting 44 Old Forest Hill Road, Transportation Services recommends that the owner pay all associated costs for City staff to install a permanent ramp to service the circular driveway.

### **CONTACT**

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### **SIGNATURE**

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Angie Antoniou  
Manager, Right of Way Management

### **ATTACHMENTS**

Appendix 'A' - photo

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