



STAFF REPORT INFORMATION ONLY

Report Title

Report on Construction Activities at 145 Spalding Road
Toronto Building Response to request from October 13,
2009 North York Community Council meeting.

Date:	October 23, 2009
To:	North York Community Council
From:	Director and Deputy Chief Building Official, North York District
Wards:	Ward 9 York Centre
Reference Number:	File No. 2009 NY025

SUMMARY

This report responds to the Request for Information NY28.29 adopted at the North York Community Council meeting of October 13, 2009 regarding the permit history and construction activities at 145 Spalding Road.

Building Permit 08 144062 was issued on April 7, 2008 for the construction of a detached garage in the rear yard of 145 Spalding Road.

Building Permit 08 160219 was issued on June 10, 2008 for the construction of a two storey dwelling.

Mandatory inspections required by the Ontario Building Code were undertaken by the assigned Part 9 Generalist Inspector and the Senior Inspector for both permits. Revisions were required for both permits.

During construction a number of concerns were raised by neighbours to the south of the construction site. A vigorous inspection process was undertaken to ensure the project complied with the Ontario Building Code, North York Zoning By-law 7625 as amended and other applicable law.

Financial Impact

This report will have **no** financial impact beyond what has already been approved in the current year's budget.

DECISION HISTORY

This report responds to the Notice of Motion by Ward 9 Councillor Augmeri adopted at the October 13, 2009 meeting of the North York Community Council as follows:

1. That the Director and Deputy Chief Building Official be requested to prepare a report on the permit history and construction activities at 145 Spalding Road for inclusion in the North York Community Council meeting of November 10, 2009.

COMMENTS

Background

The property at 145 Spalding Road was redeveloped during 2008/2009 with a new single detached garage at the rear of the lot and a new two storey single family house.

During construction a number of concerns were raised by neighbours to the south of the construction site. The complaints addressed the construction of the garage, the house and the landscaped open space on the site.

In response letters were written on June 19, 2009 and August 12, 2009 by Toronto Building providing answers to 25 questions directly related to these complaints.

The construction inspection process and the response to the complaints are described below.

Construction of the garage.

The garage was built before the house under building permit 08 144062, issued April 7, 2008. An additional building permit for a revision to the garage roof framing was issued September 1, 2009 to permit the reconstruction and lowering of the roof in order to comply with height limits.

For a garage the Ontario Building Code mandatory inspections are:

- excavation and shoring
- footings and foundations
- structural framing
- exterior final

These building inspections were carried out and the Ontario Building Code requirements were met.

A number of complaints were received regarding the construction of the garage.

The first complaint was in relation to the planting of a hedge along the south side of the garage. As the garage permit was issued as of right there were no conditions requiring planting of a hedge attached to the Zoning clearance process. While it is possible that two private parties agreed to the provision at some time in the past the enforcement of the agreement is beyond the scope of the municipal regulations applicable to this property.

The second complaint addressed the allegation of the construction of a hidden basement below the garage floor. The building inspector and the senior inspector attended the site on three separate occasions to follow up on claims of evidence of the basement. It was determined that there is no basement below the garage floor slab.

The third complaint received concerned the length, width and height of the garage. An inspection was conducted in relation to this complaint and it was determined that the length and width of the garage were in conformance with the issued building permit and the North York Zoning By-law. The inspection however revealed that the height of the garage did not comply with the Zoning By-law.

The height limit of a garage in the North York Zoning By-law is 3.7 metres, determined by averaging the distance from the ground adjoining the base of all four exterior walls of the garage to the mean height level between eaves and ridge.

In the course of constructing the garage the owner constructed a retaining wall across the rear yard at the property line. In the area of the back wall of the garage the Zoning By-law required a 9 inch setback from the property line. In this area the retaining wall was not built because the foundation wall of the garage adequately retained the earth. The exclusion of this part of the wall affected the determination of the height of the garage as the height is calculated from the ground at the base of all four exterior walls.

To bring the height measurement into compliance the retaining wall was extended behind the rear wall of the garage in the setback area to establish a uniform rear grade elevation along the south property line. This extension of the retaining wall is not regulated by the Ontario Building Code or the Zoning By-law and a building permit is not required.

With the wall in place the height was measured around the full perimeter of the garage and the mean height between the eaves and ridge roof. The resultant height was found to be approximately four centimetres above the height limit. An Order to Comply was served and a revision to the building permit was issued permitting the reconstruction of the roof to ensure compliance.

We have measured the height of the garage and it appears to comply with the Zoning By-law. However we have requested a report from the surveyor confirming compliance.

The fourth complaint received referred to a pipe in the retaining wall causing water to be directed onto the neighbouring property. There are no drain holes in the retaining wall directing water onto the property to the south. On the east property line a short drain pipe is built into the wall but there is no evidence of water being discharged adversely affecting the property of the neighbour to the east.

The fifth complaint referred to the use of the garage for the parking of commercial construction vehicles. Inspections discovered no equipment on the site other than that used in the construction on the property.

Municipal Licensing and Standards investigated a similar complaint and found no evidence of a by-law infraction.

Construction of the house

The house was built subsequently under building permit 08 160219 issued June 10, 2008. Permits for drains and water service, plumbing and mechanical work were issued at the same time.

A building permit for a revision to the driveway layout was issued October 1, 2009.

For a house the Ontario Building Code mandatory inspections are:

- excavation and shoring
- footings and foundations
- structural framing
- insulation and vapour barrier
- final interior
- final exterior.

In addition two mandatory inspections are required for the drain permit, two for the plumbing permit and two for the mechanical permit:

- drain - sewage/drain/sewage
- drain – water service
- plumbing – drains waste and vents rough in
- plumbing final
- HVAC – extraction rough in
- HVAC final.

These inspections have been carried out and the Ontario Building Code requirements were met.

A number of complaints were received regarding the construction of the house. The first complaint was in regard to a concern that the basement would be used for a separate apartment. The senior inspector established that the basement was built in accordance with the permit plans and does not contain a basement apartment.

The second complaint was in regard to evidence of a plan to use the attic as habitable space. The senior inspector established that the attic was accessible only by an attic hatch as required by the Ontario Building Code and was not finished as habitable space.

The third complaint addressed an overall concern that the house would be subdivided and used for apartments. Recent inspections have confirmed that the house has been constructed as a single family dwelling and is being occupied by the owner and his family.

A fourth complaint concerned front yard parking and landscaped open space in the front yard. At the permit application stage the site plan indicated a driveway on the east side of the property leading to the detached garage at the rear. The owner decided to apply for a circular driveway at the front of the property. Toronto Transportation has approved the circular driveway layout and has approved the two curb cuts to support the circular driveway.

An application for a revision to the building permit was subsequently made for a revised landscape plan to incorporate the circular driveway. The revision was issued on October 1, 2009. This work is ongoing at this time and on completion a survey will be required to confirm compliance with the Zoning By-law

This project has been reviewed by the building inspector and the senior inspector. Inspections have also been carried out by the inspections manager and the director. The owner has been cooperative in working toward compliance with all regulations.

I anticipate that the permits will be closed in the near future on achieving full and detailed compliance.

CONTACT

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Ted Tipping, Director and Deputy Chief Building Official,
Toronto Building, North York District



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To bring the height measurement into compliance the retaining wall was extended behind the rear wall of the garage in the setback area to establish a uniform rear grade elevation along the south property line. This extension of the retaining wall is not regulated by the Ontario Building Code or the Zoning By-law and a building permit is not required.

With the wall in place the height was measured around the full perimeter of the garage and the mean height between the eaves and ridge roof. The resultant height was found to be approximately four centimetres above the height limit. An Order to Comply was served and a revision to the building permit was issued permitting the reconstruction of the roof to ensure compliance.

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