

**Encroachment Agreement Request
236 Hillhurst Boulevard**

Date:	January 14, 2010
To:	North York Community Council
From:	District Manager, Municipal Licensing and Standards, North York District
Wards:	Ward 16 - Eglinton-Lawrence
Reference Number:	IBMS No. 09-183648

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 recommends that:

- 1. North York Community Council refuse the application for an encroachment agreement for 236 Hillhurst Boulevard.**

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 October 2009 and was circulated to Transportation Services and the applicable utilities.

ISSUE BACKGROUND

This single-family detached home is in a single-family third density (R3) zone located in the former City of North York (*Attachment 1*). It is located on the north side of Hillhurst

Boulevard east of Cortleigh Parkette and undedicated roadway Ruby Avenue (*Attachment 2*).

The existing encroachment consists of a stone retaining wall, an underground sprinkler system and a decorative boulder. The retaining wall is located beside the sidewalk. It is 44 centimetres in height for 5 metres from the east edge of the driveway and then 65 centimetres in height for 5.36 metres for a total of 10.36 metres (*Attachment 3 and 4*).

COMMENTS

Utilities have provided clearance letters indicating that they have no objections to the current location of the wall except for a conditional approval from Bell Canada.

Transportation Services, Road Operations, North York District staff, as part of their review, have indicated that they want the retaining wall to be located a minimum of 46 centimetres back from the edge of the sidewalk and that the sprinkler system be included in the agreement.

If North York Community Council decides to approve the wall in its current location the owner(s) should be instructed to meet the following conditions:

- a) That the owner(s) have a locate done for the Bell Canada line in the area and hand dig within 1 metre of any Bell plant;
- 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.

CONTACT

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SIGNATURE

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

ATTACHMENTS

1. Zoning map
2. Aerial view
3. Concept landscape diagram
4. Photograph of 236 Hillhurst