

Privacy Fence – 109 Walmer Road

Date:	January 20, 2010
To:	Toronto and East York Community Council
From:	Manager, Right of Way Management, Transportation Services Toronto and East York District
Wards:	Trinity-Spadina - Ward 20
Reference Number:	Te10009te.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 owners of 109 Walmer Avenue for the maintenance of a closed board wooden privacy fence with a wrought-iron arbour, measuring 2.93 m in height over each gate, 2.09 m in height on the Bernard Avenue flank and 1.93 m in height fronting 109 Walmer Road.

Although the fence exceeds the allowable height under the Municipal Code, it does not impact negatively on the public right of way. Transportation Services recommends approval of the privacy fence at this location.

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 a closed board wooden privacy fence, with a wrought-iron arbour, measuring 2.93 m in height over each gate, 2.09 m in height on the Bernard Avenue flank and 1.93 m in height fronting 109 Walmer Avenue, subject to the owners entering into an encroachment agreement with the City of Toronto, agreeing to but not limited to the following:

- a. maintain the privacy fence with arbours at their 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;
 - b. remove the privacy fence with arbours upon receiving 90 days written notice to do so; and
 - c. accept such additional conditions as the City Solicitor or the General Manager of Transportation Services may deem necessary in the interest of the City;
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.

COMMENTS

Applicable regulation

The construction and maintenance of fences within the public right of way are governed under the criteria set out in Chapter 313-33, Streets and Sidewalks of the former City of Toronto Municipal Code, 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, fences 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.

There are no provisions within the former City of Toronto Municipal Code, Streets and Sidewalks for the maintenance of arbours within the public right of way; therefore, we are required to report on the matter.

Reasons for approval

Transportation Services has determined that the height of the fence and arbours do not negatively impact the public right of way, therefore, they should be permitted, subject to the owners entering into an encroachment agreement with the City of Toronto.

Details of the encroachment are on file with Transportation Services.

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

CONTACT

Elio Capizzano, Supervisor, Right of Way Management

Tel: 416-392-7878, Fax: 416-392-7465, E-mail: ecapizza@toronto.ca

SIGNATURE

Angie Antoniou
Manager, Right of Way Management

ATTACHMENTS

Appendix 'A' – photos

P:\2010\Cluster B\TRA\Toronto and East York\row\te10009te.row - gmh