



STAFF REPORT ACTION REQUIRED

Fence Encroachment Appeal - 75 Northcliffe Boulevard

Date:	January 24, 2013
To:	Etobicoke York Community Council
From:	Director, Transportation Services - Etobicoke York District
Wards:	Ward 17 - Davenport
Reference Number:	p:\2013\Cluster B\TRA\EtobicokeYork\eycc130035-tp

SUMMARY

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

Transportation Services has received an application from the homeowners of 75 Northcliffe Boulevard to maintain a 3.22 metre high screen fence in the municipal boulevard adjoining the Rosemount Avenue flankage of their property. The existing fence does not comply with the requirements of Chapter 743 (Use of Streets and Sidewalks) of the Toronto Municipal Code, and the property owner appealed our refusal of their application. The owner will be given an opportunity to make a deputation before Community Council.

RECOMMENDATIONS

Transportation Services recommends that Etobicoke York Community Council:

- (1) Refuse the applicant’s request to maintain a fence in the municipal boulevard abutting the subject property and require the applicant to either remove the existing fence or reduce it to a height of 1.0 metre, measured from the travelled portion at Rosemont Avenue, at no expense to the City, by August 28, 2013.

Financial Impact

There are no financial implications resulting from adopting this report.

ISSUE BACKGROUND

The owner of 75 Northcliffe Boulevard submitted an application to retain an existing 3.22 metre solid high screen fence in the municipal boulevard abutting the Rosemount Avenue flankage of their property. A review of their application found that the location of the fence and design does not comply with the requirements of Article IV (Encroachments in Streets) of Chapter 743 (Use of Streets and Sidewalks) of the Toronto Municipal Code.

Attachment 1 illustrates the site and surrounding area. Attachments 2 and 2A show the design and location of the proposed fence.

Article IV of Chapter 743 allows property owners to install fences in municipal boulevards, without the need for an encroachment agreement, provided that the fence satisfies the following conditions:

1. The fence is less than 0.90 metres in height, measured from the travelled surface of the adjoining road, is located not less than 0.50 metres from the back edge of sidewalk or 0.50 metres from the back edge of curb, and three metres from the travelled surface of the road for streets without curbs.
2. It does not conflict with vehicle or pedestrian sight lines, or interfere with traffic control devices, sidewalks or utilities.
3. The fence does not extend into the boulevard area of any neighbouring property.

Fence installations that comply with the above-noted criteria are allowed in the municipal boulevard “as of right,” and do not require the payment of annual fees. A permit is needed to construct the fence in our road allowance, but this permit is issued free of charge provided that the proposed installation satisfies these requirements.

Article IV specifies that non-screen/open fencing, such as chain link or post and rail that is between 0.90 metres and 1.20 metres in height, and between 0.90 metres and 1.80 metres in height, is allowed within the municipal boulevard abutting a property’s frontage and flankage, respectively. For these fences, an encroachment agreement and construction permit is required, at the applicant’s expense. Transportation Services Staff is delegated to approve the installation provided that it complies with the following conditions:

1. The fence provides the minimum set backs from curb and sidewalk described previously, and does not obstruct vehicle/pedestrian sight lines, interfere with traffic control devices, sidewalks, or utilities, and must not extend into the boulevard of any neighbouring property.
2. To provide an unobstructed view of approaching pedestrians, if the fence is located within 3.0 metres of a private driveway and adjacent a sidewalk, or within 3.0 metres of any road without curbs, the fence shall not exceed a height of 1.0 metres, measured from the grade of the adjoining driveway.

Article IV prohibits fences that exceed the above-noted maximum heights, as well as any solid screen or privacy fence taller than 1.0 metre that is located within 70.0 metres of the intersection of a public road. The latter is particularly significant. Average driver eye level height is 1.05 to 1.08 metres, and solid screen and privacy fencing that is taller than 1.0 metre obstructs a motorist's view of approaching traffic.

COMMENTS

The applicant proposes to maintain a 3.22 metre high solid screen privacy fence along the Rosemount Avenue flankage of the above-noted property contrary to the requirements of Chapter 743.

Staff refused the applicant's request for the fence since it does not comply with the requirements of Chapter 743, specifically:

1. The fence is of a solid screen/privacy type that is taller than 1.0 metres and is located within 70 metres of an intersection of two public roads.
2. The fence is taller than the 1.80 metres permitted along the property flankage.

The applicant appealed our refusal pursuant to Article IX of Chapter 743.

Our review of the proposed fence indicates that it does not create a sight restriction for vehicle or pedestrian traffic; regardless, the fence does not comply with the requirements of Chapter 743 and we cannot support the application.

While not a requirement of Chapter 743, staff has notified property owners immediately adjoining the property that we received a request to maintain an over-height, solid screen fence at this location, and that they can contact this Division if they have any questions or concerns with the application. Notice of this appeal was posted on the Community Council website.

Municipal Licensing and Standards has been notified of this application should the installation of the proposed fence affect any by-law under their jurisdiction.

ALTERNATE RECOMMENDATIONS

Should Community Council find merit in this request to retain the existing fence, it could be approved subject to the following conditions:

1. The property owner enters into an encroachment agreement with the City.
2. The property owner complies with any other conditions considered necessary by the Director, Transportation Services, Etobicoke York District.
3. The hedge located within municipal boulevard at the southwest corner of the property shall be maintained at a height not greater than 0.85 metres, measured from the travelled surface of the adjoining road.

4. The applicant satisfies these conditions at no expense to the City within one year of Community Council's approval.

CONTACT

Don Pardoe, Supervisor, Right-of-Way Management, Etobicoke York District

Telephone: 416-394-8422 Fax: 416-394-8942

E-mail: dwpardoe@toronto.ca

AFS17161

SIGNATURE

Steven T. Kodama, P.Eng.

Director, Transportation Services - Etobicoke York District

ATTACHMENTS

Attachment 1:	Map
Attachments 2 and 2A:	Fence Design and Location