



## STAFF REPORT ACTION REQUIRED

### Encroachment Agreement Request 52 Keswick Road

<b>Date:</b>	June 6, 2011
<b>To:</b>	North York Community Council
<b>From:</b>	District Manager, Municipal Licensing and Standards, North York District
<b>Wards:</b>	Ward 9 - York Centre
<b>Reference Number:</b>	IBMS No. 10-258486

#### SUMMARY

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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

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**Municipal Licensing and Standards, North York District, recommends that:**

- 1. The North York Community Council refuse the encroachment agreement for 52 Keswick Road as the necessary clearances have not been received.**

#### FINANCIAL IMPACT

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There is no financial impact anticipated resulting from the adoption of this report.

#### DECISION HISTORY

The application for an additional encroachment agreement was received from the property owners on September 7, 2010 and was circulated to Transportation Services and the applicable utilities.

#### ISSUE BACKGROUND

This single family detached home is a corner lot located in fourth density Residential (R4) zone in the former City of North York - Zoning By-Law 7625. (See *Attachment 1*).

The application is to allow existing encroachments consisting of five 6'0" high wooden cedar fence posts on 2 different locations of the Keswick Road frontage at the property.

The owner(s) originally applied for an Encroachment Agreement in May 2009 under North York Community Council item NY27.67 to allow an encroaching fence adjacent to the Gilley Avenue flankage. This report was approved conditionally, but the agreement has not been finalized and is still pending.

## **COMMENTS**

Utilities have provided clearance letters indicating that they have no objections to the current location of the four cedar fence posts, except no response was received from Rogers Cable.

Right-of-Way Transportation Services - North District staff have provided objections to the proposal indicating they have concerns about vehicular traffic sight lines for users of Gilley Avenue and Keswick Road.

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 if an objection is received from Rogers Cable, the owner(s) will remove or amend any offending portion at their own expense and to the satisfaction of both Rogers Cable & Right-of-Way Transportation Services.
- b) The current cross framing members connecting any of the four cedar fence posts to themselves or to the solid fence on city property abutting Gilley Avenue be removed and that no other cross members or lateral connections of any kind be made. (*See Attachments 4, 5, 6, 7 & 8*)
- c) The current cross framing members connecting the single cedar fence post on the south side of the property to the existing solid fence on private property be removed and that no other cross members or lateral connections of any kind be made. (*See Attachment 9*)
- d) No infill or attachments of any kind be permitted on city property which is on or adjacent to the fence posts, including but not restricted to any building materials, ornamental decorations or natural growth of any kind.
- e) The approval for the application is only as submitted and any material alteration, deviation or change in size or of any other kind, be with the prior written approval of Right-of-Way Transportation Services.

- f) 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;
- g) That the appropriate City Officials be authorized to take the necessary action to give effect thereto;
- h) 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;
- i) 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;
- j) 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;
- k) 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;
- l) The owner(s) pay all applicable fees.

## **CONTACT**

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## **SIGNATURE**

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Eletta Purdy, District Manager  
Municipal Licensing and Standards  
North York District

## **ATTACHMENTS**

1. Zoning map.
2. Site Plan SK1 showing 2 areas of encroachment application enclosed by squares.
3. Elevations Plan SK2 showing 2 different elevations for cedar fence posts.
4. Photo from Gilley Avenue looking southeast west of street corner.
5. Photo from Gilley Avenue looking southeast at the street corner.
6. Photo from Keswick Road looking west.
7. Photo from Keswick Road looking southwest.
8. Photo from Keswick Road looking north.
9. Photo from Keswick Road looking south.