Encroachment Appeal – 66 Northdale Road

Date: May 26, 2014
To: North York Community Council
From: Director, Transportation Services Division, North York District
Wards: Ward 25 – Don Valley West
Reference Number: p:\2014\TRANorthYorkDistrict\ny14034

SUMMARY

This staff report is about a matter for which Community Council has delegated authority from City Council to make a final decision provided that it is not amended so that it varies with City policy or by-laws.

Transportation Services has assessed an appeal from the owner of 66 Northdale Road to maintain various encroachments on the public right of way which are not permitted under Chapter 743 Streets and Sidewalks, Use of. These include 2.6 metre high brick piers at the driveway entrance surmounted with decorative metal grills, 2.2 metre high hedges, 2.6 metre high electronic fence gates, 2.6 metre high metal fence, 1.0 metre and 1.1 metre high tiered concrete walls surmounted with 1.4 metre and 0.9 metre metal fencing, respectively, underground cables for electronic fence gates, sensors, and lighting.

We recommend approval of these encroachments as they have been maintained for numerous years without concerns although they do not comply with the requirements of Chapter 743, Streets and Sidewalks, Use of. The owner will be given an opportunity to make a deputation before Community Council.

RECOMMENDATIONS

Transportation Services, North York District, recommends that the North York Community Council:

1. Approve the maintenance of various encroachments at 66 Northdale Road, namely; the 2.6 metre high brick piers surmounted with decorative metal grills, the 2.6 metre...
high electronic fence gates and related underground cables, sensors, lighting, 2.2 metre high hedges, 2.6 metre high metal fence, tiered 1.0 metre and 1.1 metre high concrete walls surmounted with 1.4 metre and 0.9 metre high metal railings subject to the following:

a. The property owner must maintain, as long as the encroachments are maintained, valid property insurance in case there are any claims initiated due to the encroachments;

b. The property owner accepts that the City and/or utility companies may remove the encroachments in order to install or maintain services within the affected public right of way;

c. The property owner must enter into an encroachment agreement with the City of Toronto and assume all costs, liability and damages related to maintenance of the encroachments; and

d. The property owner must remove the existing stones, overgrown planting, and light-weight planters on the public right of way.

Financial Impact

There is no financial impact to the City as a result of this report.

ISSUE BACKGROUND

In 2006, the property owner of 66 Northdale Road submitted an application to Municipal Licensing and Standards, who formerly had the responsibility to handle this type of encroachment application for North York District. The application was temporarily put on hold as Transportation Services was reconstructing this roadway in 2007.

Objections to the proposed encroachments were forwarded to MLS as the encroachments were not setback 2.13 metres from the roadway as required by the applicable by-law at that time.

When the roadway was reconstructed, it created a grading issue for this property. To address this issue, it was agreed between the property owner and the City that a retaining wall would be constructed effectively closing access to one leg of the circular driveway. The client has since modified the retaining wall which has been surmounted with metal fencing for a total of 2.4 metres in height.
In 2008, it was agreed that Transportation Services would prepare the report rather than Municipal Licensing and Standards; however, for unknown reasons, the report was not submitted.

On October 31, 2013, a revised site plan showing the existing encroachments was submitted by the property owner with the required appeal application and related processing fee to prepare a report for North York Community Council consideration.

Other encroachments being maintained on the public right of way can be delegated under provisions of Chapter 743, which include a sprinkler system, intercom unit and decorative fountain. However, the client must remove existing rocks, overgrown planting and light-weight planters within the public right of way.

**COMMENTS**

**Applicable Regulations**

Encroachments are governed by the criteria set out in the City of Toronto Municipal Code Chapter 743, Streets and Sidewalks, Use of. The relevant provisions for encroachments subject to this appeal include:

- The maximum permitted height for fencing, walls, and piers fronting a residence is 1.2 metres.
- The maximum permitted height for hedges is 0.9 metres measured from the roadway grade.
- A vision splay is required for encroachments that exceed a height of 0.9 metres in the vicinity of a driveway.
- There is no provision for electronic gates and underground cables
- A minimum 0.5 metres setback is required for encroachments back of the roadway.

**Reasons for Approval**

We recommend approval of the encroachments at 66 Northdale Road as they have been maintained for years without concerns and no objections have been received from the neighbouring properties.
The Ward Councillor has been advised of the recommendations of this report.

Details regarding the application are on file with Transportation Services.

**CONTACT**

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**SIGNATURE**

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Kyp Perikleous
Director

**ATTACHMENTS**

Attachment 1:  Site Plan