Encroachment Appeal: 221 Elmwood Ave

Date: July 18, 2014
To: North York Community Council
From: Director, Transportation Services, North York District
Wards: Ward 23 – Willowdale
Reference Number: p:\2014\TRA\NorthYorkDistrict\ny14076

**SUMMARY**

This staff report is about a matter for which 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.

To approve the installation of a proposed fence at 221 Elmwood Avenue.

Although, it does not meet the requirements of the City of Toronto Municipal Code, Chapter 743, Streets and Sidewalks, Use of, our review of the proposed fence installation indicates that it does not negatively impact the public right of way, and does not create a sight obstruction. The owner will be given an opportunity to make a deputation before Community Council.

**RECOMMENDATIONS**

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

1. Approve the request to install and maintain a 1.8 metre high fence enclosing the backyard subject to the following conditions:
   
   a. The property owner to enter into an encroachment agreement with the City of Toronto at the applicant's expense and assume all liability and damages related to maintenance of the encroachment;
b. The property owner obtains a permit to construct the fence within the public right of way;

c. 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;

d. 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; and

e. Construction of the fence shall be completed to the satisfaction of the Director, Transportation Services, North York District, and at no cost to the City.

Financial Impact

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

ISSUE BACKGROUND

The homeowner of 221 Elmwood Avenue submitted an application to install a 1.8 metre privacy fence in the municipal boulevard, along the flankage of their property on Longmore Street to enclose the rear yard.

A review of the application found that the fence height and location does not comply with requirements of Article IV (Encroachment in Streets) of Toronto Municipal Code Chapter 743 (Streets and Sidewalks, Use of).

Staff denied the application as Article IV prohibits any solid screen or privacy fence taller than 1.0 metre installed within 70 metres of an intersection.

COMMENTS

The proposed fence installation at 221 Elmwood Avenue does not meet the requirements of the City of Toronto Municipal Code, Chapter 743. Our assessment has indicated that the proposed fence does not negatively impact the public right of way, and does not create sight line obstructions for driveways or other properties nearby.
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 the encroachment subject to this appeal include:

- The maximum permitted height for fencing on a residence within 70 metres of the intersection of two or more roadways is 1.0 metres measured from the road grade.
- A vision splay is required for encroachments that exceed a height of 0.9 metres in the vicinity of the driveway.

Reasons for Approval

The installation of the proposed fence on Longmore Street does not impede pedestrian movements nor create sight line obstructions for vehicle or pedestrian movements.

CONTACT

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SIGNATURE

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Kyp Perikleous
Director

ATTACHMENTS

Attachment 1: Site Plan
Attachment 2: Fence cross-section