Fence Encroachment Appeal – 84 Treelawn Parkway

Date: August 19, 2016
To: Etobicoke York Community Council
From: Director, Transportation Services - Etobicoke York District
Wards: Ward 12 – York South-Weston
Reference Number: p:\2016\Cluster B\TRA\EtobicokeYork\eycc160133-to

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

Transportation Services has received an application from the homeowners of 84 Treelawn Parkway to maintain a metal fence and brick pillars in the municipal boulevard abutting the Treelawn Parkway frontage of their property. The proposed 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 install/maintain a fence in the municipal boulevard abutting the subject property.

Financial Impact
There are no financial implications resulting from adopting this report.

ISSUE BACKGROUND
The owner of 84 Treelawn Parkway submitted an application to maintain a metal fence and brick pillars in the municipal boulevard abutting the Treelawn Parkway frontage of their property. A review of their application found that the location and design of the fence 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 3 show the location and design of the 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 along the frontage, and between 0.90 metres and 1.80 metres in height along the flankage, is allowed within the municipal boulevard. 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.

COMMENTS
The applicant installed a 1.42 metre high metal and brick fence along the Treelawn Parkway frontage 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 taller than 1.2 metres above the travelled surface of the adjoining roadway.

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

Notice of this appeal was posted on the Community Council website.
ALTERNATE RECOMMENDATIONS

Should Community Council find merit in this request to maintain/retain the 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 applicant satisfies these conditions at no expense to the City within one year of Community Council’s approval.

CONTACT
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SIGNATURE

Steven Kodama
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ATTACHMENTS

Attachment 1: Map
Attachment 2: Site Plan
Attachment 3: Photos