

Encroachment Appeal - 203 Glengarry Avenue

Date: November 14, 2016

To: North York Community Council

From: Director, Transportation Services, North York District

Wards: Ward 16 - Eglinton-Lawrence

SUMMARY

This staff report is about a matter for which Community Council has delegated authority from City Council to make a final decision provided it is in keeping with City policy or by-laws.

Transportation Services is requesting authority to enter into an encroachment agreement for the maintenance of a 1.2 metre-high wrought iron fence, a 0.3 metre-high retaining wall without setback, and 1.9 metre-high cedar hedges on the Elm Road flankage of 203 Glengarry Avenue.

The height of the wrought iron fence and cedar hedges and the retaining wall without setback on the public right of way do not meet the requirements of the City of Toronto Municipal Code, Chapter 743, Streets and Sidewalks, Use of. The owner will be given an opportunity to make a deputation before Community Council.

RECOMMENDATIONS

The Director, Transportation Services, North York District recommends that:

1. North York Community Council approve the request to maintain a 1.2 metre-high iron fence, a retaining wall without setback from the sidewalk, and 1.9 metre-high cedar hedges on the public right of way on the Elm Road flankage of 203 Glengarry Avenue, subject to the following conditions:

- a. The property owner will enter into an encroachment agreement with the City of Toronto, at the applicant's expense, and assume all liability and damages related to the encroachments.
- b. The property owner must retain, as long as the encroachments are maintained, valid property insurance in case there are any claims initiated due to the encroachments.

- c. 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.
- d. The property owner will remove river stones/gravel on the public right of way adjacent to the driveway and will restore the affected boulevard to sod.
- e. The property owner will remove the sharp tops on the wrought iron fence.

FINANCIAL IMPACT

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

DECISION HISTORY

This report addresses a new initiative.

COMMENTS

An encroachment application was received on September 20, 2016, from the property owner, requesting permission to maintain a 1.2 metre-high wrought iron fence, a 0.3 metre-high retaining wall without setback from the City sidewalk, and 1.9 metre-high cedar hedges on the public right of way at 203 Glengarry Avenue.

Other permitted encroachments are being maintained on the public right of way; namely, a sprinkler system and decorative light.

As the provisions of Chapter 743, Streets and Sidewalks, Use of, of river stones/gravel are not identified as permitted encroachments on the public right of way within Chapter 743, Streets and Sidewalks Use of. Since can adversely affect pedestrians, snow removal, and maintenance of the public right of way, the owner has been directed to remove them.

As the height of the fence and cedar hedges exceed the permitted 1.0 metre height measured from the roadway grade for this corner lot residence and the retaining wall has been constructed without setback from the City sidewalk, they do not comply with the provisions of the applicable by-law. An appeal was subsequently received for the encroachment maintenance from the property owner on November 2, 2016, for which this report has been prepared.

A site plan showing the encroachment has been submitted which is attached as Attachment 1.

The proposed maintenance of the 1.2 metre high fence, cedar hedges, and a retaining wall without setback, is acceptable provided that the property owner removes the sharp tops on the fence and enters into an encroachment agreement with the City.

Our assessment of the fence and cedar hedges is that they do not adversely affect traffic sightlines as they are setback 2.8 metres from the City sidewalk. Maintenance of the encroaching fence, cedar hedges and retaining wall on the public right of way is acceptable as the encroachments do not adversely affect the public right of way.

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 encroachments subject to this appeal are that the height of encroachments cannot exceed 1.0 metre measured from the roadway grade for a property within 70 metres of an intersection of two or more roadways and that a minimum 0.5 metre setback must be provided from encroachments to a City sidewalk or roadway curb.

The Councillor has been advised regarding the proposed maintenance of the encroachments on the public right of way at the subject premises.

CONTACT

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SIGNATURE

Jacqueline White, P.Eng.
Director

ATTACHMENTS

Attachment 1: Site Plan