

Encroachment Appeal - 14 Joyce Parkway

Date: January 8, 2019

To: North York Community Council

From: Director, Transportation Services, Permits and Enforcement

Wards: Ward 8 - 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 also requesting authority to enter into an encroachment agreement with the owners of 14 Joyce Parkway for a 1.82 metre high wooden fence, with a 1.78 metre setback from the roadway curb. Transportation Services is also requesting authority to maintain an existing pool house (3.35 metres high, 6.15 metres long and 3.35 metres wide), setback 3.30 metres from the roadway curb on Sage Avenue at the subject premises.

The pool enclosure fence and pool house 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, Permits and Enforcement, recommends that:

1. North York Community Council approve the request to maintain a 1.82 metre high wooden fence and wooden pool house on the flankage of the subject premises on the public right of way at 14 Joyce Parkway, subject to the following conditions:

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

c) The property owners agree that the City and/or utility companies may remove the fence and pool house in order to install or maintain services within the affected public right of way with no obligation to replace the encroachments.

d) The property owner shall remove the encroachments if required by the General Manager, Transportation Services, at any time and restore the street to the satisfaction of the General Manager, Transportation Services.

e) The property owner must comply with City of Toronto Municipal Code, Chapter 447, Fences, if the fence encroachment is altered or removed from the City right of way.

FINANCIAL IMPACT

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

DECISION HISTORY

On September 10, 2007, North York Community Council adopted Item NY8.9 which approved an encroachment application at 14 Joyce Parkway for permission to install and maintain pre-cast stone walls, board fence, pool house, light standard, walkway with steps and sprinkler heads located on the city road allowance subject to specific conditions, which included the payment of fees and that the owner enter into an encroachment agreement with the City for a term of 10 years.

[NY8.9 Encroachment Agreement Request for 14 Joyce Parkway](#)

COMMENTS

A report to North York Community Council was prepared and adopted on September 10, 2007 to permit the following encroachments on the City right of way adjacent to 14 Joyce Parkway: pre-cast stone walls, board fence, pool house, light standard, walkway with steps and sprinkler systems. Conditions placed on the approval of these encroachments included that the property owner enter into an encroachment agreement with the City for a term of 10 years.

An encroachment agreement was subsequently entered into with the property owner at 14 Joyce Parkway. That agreement expired on September 10, 2017. A new application was received from the new property owner on June 15, 2018 seeking permission to maintain a pre-cast stone wall, board fence, pool house, and walkway on the City right of way. However, the modified pool house must be removed or restored to the original approved pool house size.

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 a fence within 70 metres of an intersection of two or more roadways cannot exceed 1.0 metre height measured from

the roadway grade. There is no provision in Chapter 743 for a pool house to encroach on the public right of way but it has been maintained without incident as a pool house for numerous years.

As the proposed height of the fence and modified pool house do not comply with the maximum one metre height permitted encroachment under Chapter 743, Streets and Sidewalks, Use of, the General Manager is not authorized to issue a permit or enter into an agreement for these encroachments. An appeal was subsequently received from the property owners on October 16, 2018, for which this report has been prepared.

A survey and site plan showing the encroachments have been submitted and are included as attachments in this report.

Although the proposed fence and the pool house exceed the permitted height of 1 metre for encroachments within 70 metres of an intersection of two or more roadways, staff is of the opinion that they do not cause a sight line impediment affecting traffic or pedestrians, and that these proposed encroachments will not have a negative impact on the public right of way. Thus, staff believe the encroachments are acceptable provided that the property owner enters into an encroachment agreement with the City.

The Ward Councillor has been advised that the encroachments are proposed on the flank of the subject premises on the public right of way at 14 Joyce Parkway.

CONTACT

Luigi Nicolucci, Manager, Traffic Planning and Right of Way Management,
Transportation Services, Tel: 416-395-7458, Fax: 416-395-7482, Email:
Luigi.Nicolucci@toronto.ca

SIGNATURE

Dave J. Twaddle
Director

ATTACHMENTS

Attachment 1: Survey
Attachment 2: Site Plan - Pool House and fence
Attachment 3: Cross Section - Pool House
Attachment 4: Cross Section - Pool House