

Encroachment Appeal - 2966 Bayview Avenue

Date: June 18, 2019

To: North York Community Council

From: Director, Transportation Services, Permits and Enforcement

Wards: Ward 18 - Willowdale

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 with the owner(s) of 2966 Bayview Avenue for the 2.2 metre high metal fence and retaining wall measured from the roadway grade and setback 3.5 metres from the roadway curb on Bayview Avenue fronting the subject premises.

The proposed metal fence and retaining wall 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 given their height and distance from the intersection of Bayview Avenue and Hillcrest Avenue. The owner(s) 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 the 2.2 metre high metal fence and retaining wall measured from the roadway grade on the frontage of the subject premises within the public right of way at 2966 Bayview Avenue, subject to the following conditions:

- a) The property owner(s) 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 owner(s) must retain valid property insurance for the duration of the encroachments in case there are any claims initiated due to the encroachments.

c) The property owner(s) agree 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 with no obligation to replace the encroachments.

d) The property owner(s) 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.

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 from the owner(s) of 2966 Bayview Avenue requesting permission to maintain the 2.2 metre high metal fence and retaining wall, as measured from the roadway grade, on the frontage of the subject premises within 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 a fence within 70 metres of an intersection of two or more roadways cannot exceed 1.0 metre in height measured from the roadway grade.

As the existing height of the fence and retaining wall do not comply with the maximum 1.0 metre height permitted under Chapter 743, Streets and Sidewalks, Use of, the General Manager is not authorized to issue a permit or enter into an agreement for the encroachment. An appeal was subsequently received from the property owners for which this report has been prepared.

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

Although the proposed metal fence and retaining wall exceed the permitted height of 1.0 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 installed along the frontage of the subject premises within the public right of way at 2966 Bayview Avenue.

CONTACT

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SIGNATURE

Dave J. Twaddle
Director

ATTACHMENTS

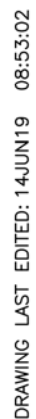
Attachment 1: Survey - Metal fence and retaining wall

Attachment 2: Site Plan - Section through metal fence and retaining wall

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SK-02

CS&P Architects