

Encroachment Appeal - 39 Cameron Crescent

Date: November 6, 2019
To: North York Community Council
From: Director, Permits and Enforcement, North York District
Wards: Ward 15 - Don Valley West

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 owners of 39 Cameron Crescent for a wooden fence that has been installed within the Sharron Drive public road allowance, along the flankage of the property. The fence varies in height from 1.8 metres to 2.0 metres, as measured from the roadway grade, is setback a minimum of 0.7 metres from the City sidewalk on Sharron Drive and is located within 70 metres from the Cameron Crescent and Sharron Drive intersection.

Transportation Services is also requesting authority to enter into an encroachment agreement for the 0.5 m wide strip of pavers that have been installed within the Sharron Drive public road allowance along the flankage of the property. The pavers have a zero setback from the existing City sidewalk.

The fence and pavers 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, for delegated approval as an encroachment by the General Manager, Transportation Services. The owner will be given an opportunity to make a deputation before Community Council.

RECOMMENDATIONS

The Director, Permits and Enforcement, North York District, recommends that North York Community Council:

1. Approve the request to maintain the wooden fence within the Sharron Drive public road allowance along the flankage of the property at 39 Cameron Crescent, which varies in height from 1.8 metres to 2.0 metres and is located within 70 metres from the Cameron Crescent and Sharron Drive intersection;

2. Approve the request to maintain the existing 0.5 metre wide strip of pavers within the Sharron Drive public road allowance along the flankage of the property at 39 Cameron Crescent, which have a zero setback from the City sidewalk; and

3. Approval of the encroachments within the public right of way be subject to the following conditions:

a) The property owners enter into an encroachment agreement with the City of Toronto at their own expense and assume all liability and damages related to the encroachments;

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 encroachments;

c) The property owners 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 owners shall remove the encroachments if required by the City at any time and restore the public road allowance to the satisfaction of the City at their own expense; and

e) The property owners must comply with any other conditions deemed necessary by the City with respect to the encroachments.

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 November 29, 2018, from the owners of 39 Cameron Crescent requesting permission to maintain an existing retaining wall, wooden fence and existing pavers within the Sharron Drive public road allowance along the flankage of the property. The retaining wall has a height that ranges from 0.4 metres to 0.7 metres, as measured from the roadway grade, and is setback a minimum of 0.5 metres from the rear edge of the City sidewalk. The fence has a height that ranges from 1.8 metres to 2.0 metres, as measured from the roadway grade and is setback a minimum of 0.7 metres from the rear edge of the City sidewalk. The strip of pavers have been installed with a zero setback from adjacent to the City sidewalk.

The property owners confirm that the new fence replaces an old fence that was of similar height and was installed in a similar location. The previous fence was in a poor state of repair when the current owners took possession of the property over twenty five years ago.

The property owners took measures to install the current fence in a similar location to the previous fence in order to minimize any impact on adjacent shrubs and City trees. In order to prevent erosion and provide support for the adjacent fence, shrubs, and trees, a small retaining wall was installed in front of the fence. The retaining wall and fence heights change as a result of changes to the elevation of the property. The property owners have complied with the requirements of Urban Forestry with respect to the affected City trees. As a result, Urban Forestry's Compliance and Enforcement unit have closed the file.

Given its height and setback from the City sidewalk, the retaining wall complies with the permitted encroachment requirements noted in Chapter 743 of the City of Toronto Municipal Code. An existing utility pole is located 0.1 metres from the retaining wall. We have received written confirmation from Toronto Hydro that they have no concerns with the retaining wall and the pavers surrounding the utility pole provided the owners are aware that they are responsible for all restoration of their installations on the encroachments resulting from utility work required from Toronto Hydro.

The fence does not comply with the height and intersection distance requirements noted in Chapter 743 as an encroachment for which staff have delegated approval, and therefore, approval from Community Council is required. Approval from Community Council is also required for the strip of pavers within the Sharron Drive public road allowance given their zero setback from the rear edge of the City sidewalk.

The owners have provided letters from adjacent property owners in the neighbourhood who support the fence replacement at 39 Cameron Crescent.

Encroachments are governed by the criteria set out in the City of Toronto Municipal Code, Chapter 743, Streets and Sidewalks, Use of. The relevant provision for the encroachments subject to this appeal are that a fence within 70 metres of an intersection of two or more roadways cannot exceed a height of 1.0 metre, as measured from the roadway grade, and the pavers require a minimum 0.5 metres setback from the rear edge of the City sidewalk. The fence exceeds the permitted height of 1.0 metre for encroachments within 70 metres of an intersection of two or more roadways and the pavers do not meet the minimum 0.5 metre setback requirement from the rear edge of the City sidewalk.

An appeal was received on April 29, 2019 from the property owners for which this report has been prepared. A site plan, cross-section plan and photos showing the encroachments have been submitted and are included as attachments to this report.

Staff is of the opinion that the subject encroachments will not have a negative impact on the public right of way in terms of maintenance and safety. As a result, staff have determined that the fence and paver encroachments are acceptable provided that the property owners enter into an encroachment agreement to the satisfaction of the City.

The Ward Councillor has been advised that the owners are requesting permission to maintain the wooden fence on the public right of way located along Sharron Drive flankage of the subject premises.

CONTACT

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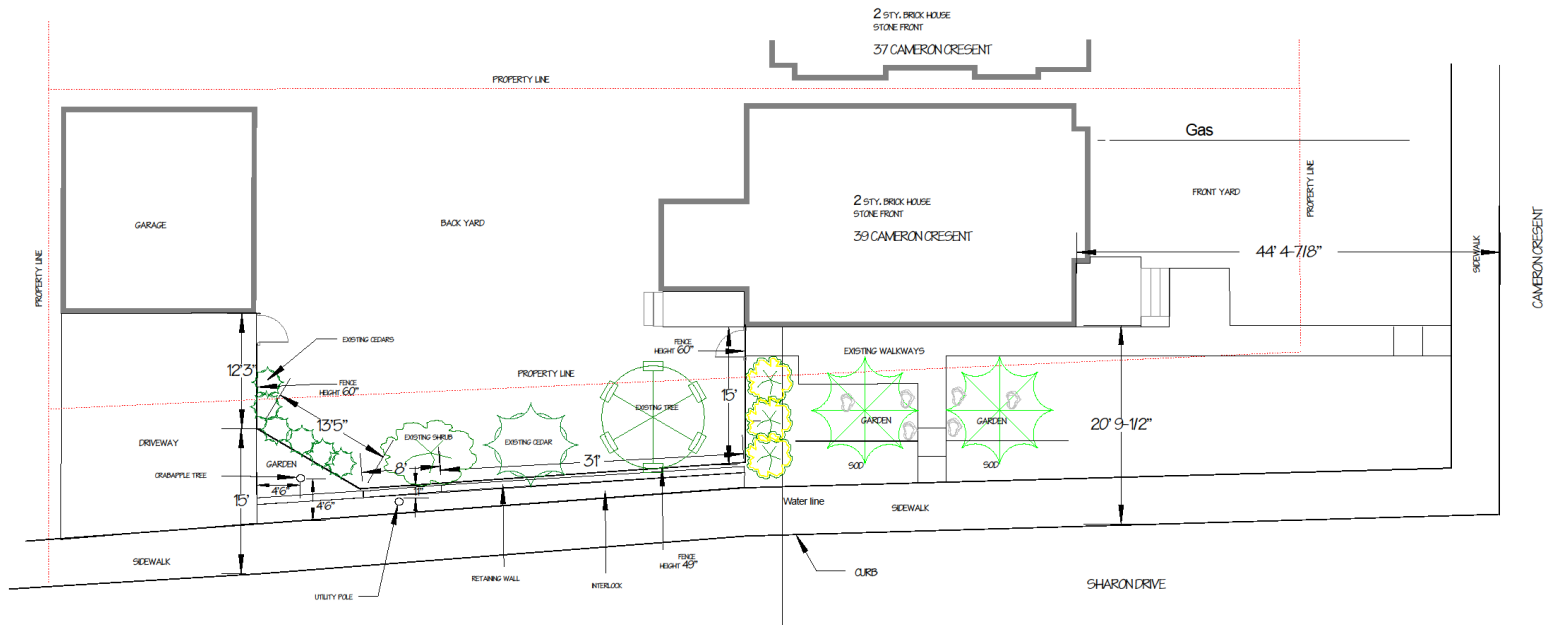
SIGNATURE

David J. Twaddle
Director

ATTACHMENTS

Attachment 1: Site Plan for 39 Cameron Crescent
Attachment 2: Cross-section plan for 39 Cameron Crescent
Attachment 3: Photo of Fence on Sharron Drive Flankage
Attachment 4: Photo of Fence on Sharron Drive Flankage at Driveway

Attachment 1: Site Plan for 39 Cameron Crescent

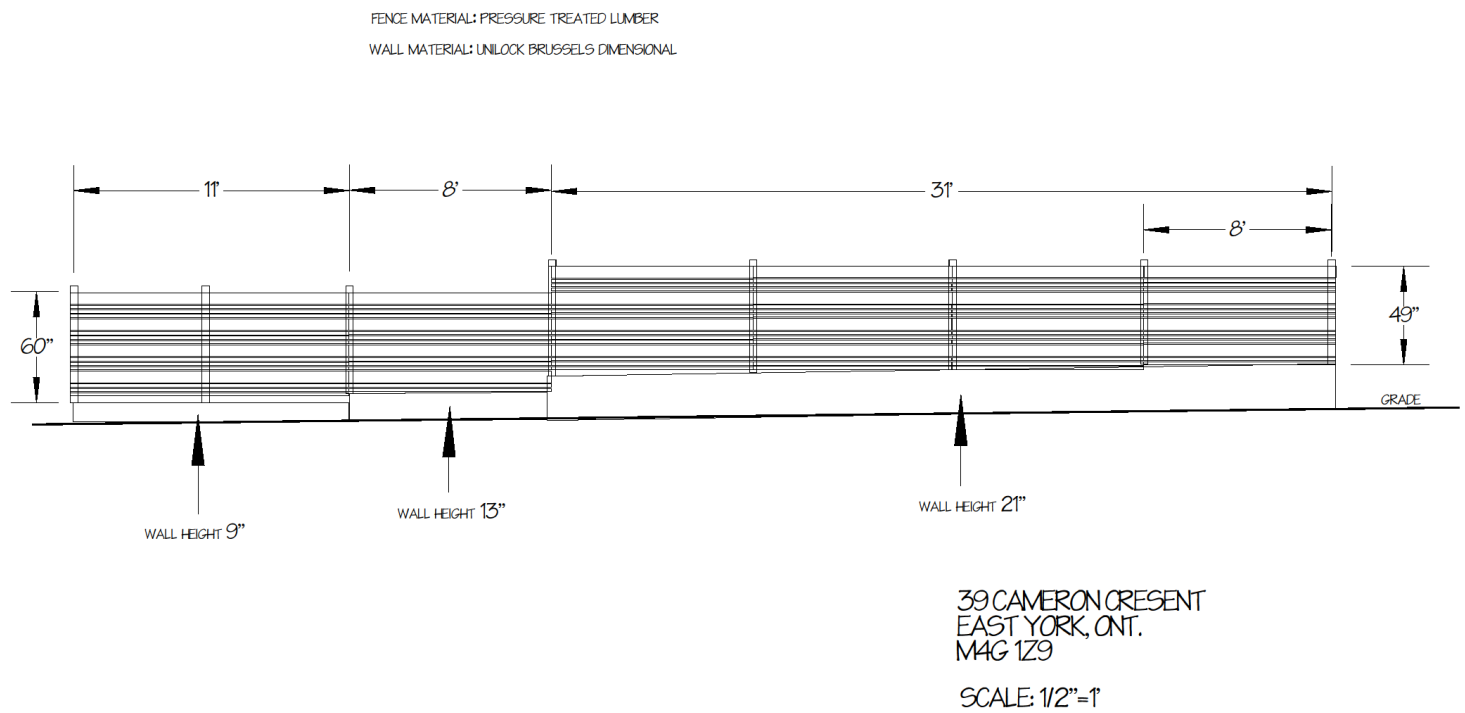


39 CAMERON CRESCENT
EAST YORK, ONT.
M4G 1Z9

SCALE: 3/16"=1'



Attachment 2: Cross-section plan for 39 Cameron Crescent



Attachment 3: Photo of Fence on Sharron Drive Flankage



Attachment 4: Photo of Fence on Sharron Drive Flankage at Driveway

