

Encroachment Appeal - 551 Deloraine Avenue

Date: February 24, 2020

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 requesting authority to enter into an encroachment agreement with the owners of 551 Deloraine Avenue for a 1.8 metres high wooden fence on the Falkirk Street flankage to enclose the rear yard, as measured from the roadway grade, with a variable 3.8 metres to 5.0 metres setback from the roadway curb of the subject premises within the public right of way.

The proposed fence on the public right of way does 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, Transportation Services, Permits and Enforcement, recommends that North York Community Council:

1. Approve the request to install a 1.8 metres high wooden fence on the flankage of the subject premises within the public right of way at 551 Deloraine Avenue with a variable 3.8 metres to 5.0 metres setback from the roadway curb subject to the following conditions:

- a) The property owners enter into an encroachment agreement with the City of Toronto at their 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 encroachment 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 encroachment in order to install or maintain services within the affected public right of way with no obligation to replace the encroachment.
- 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 September 13, 2018, from the property owner of 551 Deloraine Avenue requesting permission to install a 1.8 metres high wooden fence on the public right of way located on Falkirk Street flanking the subject premises.

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 encroachment subject to this appeal is 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. An appeal was subsequently received on May 17, 2019, from the property owner for which this report has been prepared.

The owners have submitted a tree injury application to Urban Forestry regarding a City tree in the vicinity of the proposed fence and have agreed to setback the fence from the City tree as shown on Attachment 1. Urban Forestry have confirmed on November 4, 2019, they would support the proposed tree injury as the property owner has complied with all of their requirements.

A site plan showing the encroachment has been submitted which is included as Attachment 1 in this report.

The fence exceeds 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 it will not have a negative impact on the public right of way for pedestrians or for traffic on the affected roadways. Therefore, the encroachment is acceptable provided that the property owner enter into an encroachment agreement with the City and comply with Urban Forestry's requirements.

The Ward Councillor has been advised that the applicant is requesting permission to install a 1.8 metres high wooden fence on the public right of way located on Falkirk Street flanking the subject premises.

CONTACT

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SIGNATURE

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Transportation Services

ATTACHMENTS

Attachment 1: Site Plan for 551 Deloraine Avenue

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