

Encroachment Appeal - 298 Fairlawn Avenue

Date: March 26, 2021
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 owner of 298 Fairlawn Avenue for a 1.8 metre high wooden fence, with a 0.5 metre setback from the sidewalk on Elm Road at the subject premises. The proposed encroachment does not pose as a sight line obstruction.

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. The owner will be given an opportunity to make a deputation before Community Council.

RECOMMENDATIONS

The Director, Permits and Enforcement, Transportation Services recommends that:

1. North York Community Council approve the request to maintain a 1.8 metre high wooden fence on the flankage of the subject premises on the public right-of-way at 298 Fairlawn Avenue, subject to the following conditions:

- a) The property owner enters 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 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 owner agrees that the City and/or utility companies may remove the fence in order to install or maintain services within the affected public right-of-way with no obligation to replace the encroachment.

d) The property owner shall remove the encroachment 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 of 298 Fairlawn Avenue requesting permission to maintain a 1.8 metre high wooden fence on the flanking street, Elm Road, within the public right-of-way. In 2018, the house was rebuilt and required the removal of the existing fence. The owner is now requesting permission to build a new fence further away from the intersection, with similar height and setback from the sidewalk of the previously existing fence.

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 encroachment 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.

As the proposed height of the fence does not comply with the maximum 1.0 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 the encroachment. An appeal was subsequently received from the property owner for which this report has been prepared.

The site plan showing the encroachment has been submitted and is included as an attachment in this report.

Although the proposed 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 that it does not cause a sight line impediment affecting traffic or pedestrians, and that this proposed encroachment will not have a negative impact on the public right-of-way. Thus, staff believe the encroachment is acceptable provided that the property owner enters into an encroachment agreement with the City.

The Ward Councillor has been advised that the encroachment is proposed on the flankage of the subject premises on the public right-of-way at 298 Fairlawn Avenue.

CONTACT

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SIGNATURE

Dave Twaddle,
Director, Permits and Enforcement, Transportation Services

ATTACHMENTS

Attachment 1: Site Plan - Fence

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