

Encroachment Appeal - 56 Lambeth Road

Date: February 7, 2022

To: Etobicoke York Community Council

From: Director, Permits and Enforcement, Transportation Services

Wards: Ward 2, Etobicoke Centre

SUMMARY

This staff report is about a matter that Community Council has delegated authority from City Council to make a final decision.

Transportation Services has reviewed an application to construct encroachments within the public right-of-way at 56 Lambeth Road. The proposed encroachments and contraventions of City of Toronto Municipal Code Chapter 743, Streets and Sidewalks, Use of, consist of the following:

1. A solid screen fence measuring 1.83 metres at the front and flank from the west and north sides of the property within the public right-of-way that is within 70 metres of the intersection, which exceeds the maximum one (1) metre permitted. § 743-34. A (2) (a) [1].
2. A picket fence measuring 1.52 metres at the front of the property within the public right-of-way that is within 70 metres of the intersection, which exceeds the maximum 1.2 metre permitted § 743-34. A (2) (a) and which does not provide a set back of three metres from the roadway. § 743-31. E (3).
3. Vegetation within the public right-of-way, that has the potential to exceed the height of 0.85 metres § 743-36. I.

Although the proposed encroachments are in contravention of the requirements under Code Chapter 743, staff is of the opinion that it will not have a negative impact on the public right-of-way for pedestrians or for traffic on the affected streets. Therefore, Transportation Services is requesting authority to enter into an encroachment agreement with the property owner, subject to conditions.

While not contemplated to form part of this encroachment agreement, there are existing driveway gates that do not swing towards the property which is in contravention of the requirements under Code Chapter 743, and must be changed to swing towards the property to comply with standard encroachment conditions.

RECOMMENDATIONS

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

1. Etobicoke York Community Council authorize the General Manager of Transportation Services to enter into an encroachment agreement with the property owner of 56 Lambeth Road, to permit a proposed fence and vegetation, subject to the following conditions:

- a. Indemnify the City from and against all actions, suits, claims or demands and from all loss, costs, damages, and expenses that may result from such permission granted;
- b. Maintain the fencing, vegetation, and adequate sight lines at their own expense in good repair and a condition satisfactory to the General Manager of Transportation Services and will not make any additions or modifications to the encroachment beyond what is allowed under the terms of the Agreement.
- c. Accept such additional conditions as the City Solicitor or the General Manager of Transportation Services may deem necessary in the interest of the City;
- d. The property owner will enter into an encroachment agreement with the City of Toronto, at the applicant's expense, and assume all liability and damages related to the encroachments.

FINANCIAL IMPACT

There are no financial impacts resulting from the adoption of the recommendations in this report.

DECISION HISTORY

This report addresses a new initiative.

COMMENTS

An encroachment application was received on December 6, 2021, from the owners of 56 Lambeth Road requesting permission to construct a picket fence measuring 1.52 metres at the front of the property and a solid screen fence measuring 1.83 metres at the flank from the west and north sides of the property. The application also requested permission for vegetation within the public right-of-way that has the potential to exceed the height of 0.85 metres. The applicant was notified that the fences and vegetation are not eligible for an encroachment agreement as it exceeds, or has the potential to exceed, the height and set back requirements under Code Chapter 743. An appeal was subsequently received from the property owner.

A site plan of the proposed encroachment is shown in Attachment 1.

Transportation Services has reviewed the application and staff is of the opinion that the fences and vegetation will not have a negative impact on the public right-of-way for pedestrians, for traffic on the affected streets, or the City's ability to properly maintain the right-of-way. Staff have also determined that the proposed fence does not cause any sightline issues at the intersection of Lambeth Road and Anglesey Boulevard. Furthermore, given the design of the proposed fence on Lambeth Road and vegetation, adequate sightlines will be provided to help avoid conflicts between pedestrians and vehicles reversing out of the driveway.

Therefore, Transportation Services recommends that the City enter into an encroachment agreement with the property owner to allow the fence and vegetation to encroach within the City's public right-of-way.

The site plan has been circulated to appropriate City Divisions for comments and concerns with no negative impacts expressed.

The Ward Councillor has been advised of the recommendations in this report.

CONTACT

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SIGNATURE

David J. Twaddle, CET
Director, Permits and Enforcement, Transportation Services

ATTACHMENTS

Attachment 1: Site Plan of Proposed Encroachment - 56 Lambeth Road

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