

Encroachment Appeal - 119 Westrose Avenue

Date: March 16, 2023

To: Etobicoke/York Community Council

From: Director, Permits and Enforcement, Transportation Services

Wards: Ward 3, Etobicoke-Lakeshore

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 a fence encroachment within the public right-of-way at 119 Westrose Avenue. The encroachment consists of a wood board fence which is in contravention of the City of Toronto Municipal Code Chapter 743, Streets and Sidewalks, Use Of. Specifically, the fence does not comply because it is within 70 metres of an intersection and exceeds one (1) metre in height.

Although the fence is in contravention of the requirements under the Toronto Municipal 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.

RECOMMENDATIONS

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

The Etobicoke/York Community Council authorize the General Manager of Transportation Services to enter into an encroachment agreement with the property owner of 119 Westrose Avenue, to permit a fence encroachment, 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 fence 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. Remove the fence encroachment upon receiving written notice to do so; and
- e. 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 July 20, 2021, from the owners of 119 Westrose Avenue requesting permission to construct a fence encroachment within the public right-of-way on Westrose Avenue both fronting and flanking the subject premises. The applicant was notified that the fence is not eligible for an encroachment agreement as it is within 70 metres of an intersection and exceeds one (1) metre in height. 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 fence encroachment 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. Therefore, Transportation Services recommends that the City enter into an encroachment agreement with the property owner to allow the fence to encroach within the City's right-of-way.

Transportation Services staff have determined that the proposed fence does not cause any sightline issues at the intersection of Royal York Road and Royal York South Dundas East Ramp.

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 Fence Encroachment - 119 Westrose Avenue

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