

Encroachment Appeal – 140 Clanton Park Road

Date: June 2, 2023

To: North York Community Council

From: Director, Permits and Enforcement, Transportation Services

Wards: Ward 6 - York 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 and maintain an encroachment within the City right-of-way at 140 Clanton Park Road. The encroachment consists of approximately 20 metres of 1.8 metre high wooden fence, at Kainona Avenue, which is within 70 metres of the intersection at Clanton Park Rd.

The indicated fence is in contravention of City of Toronto Municipal Code Chapter 743, Streets and Sidewalks, Use Of, Section 34A (2) (a) (1) which states; No solid screen fence, privacy fence, railing, bollard, arbour, pergola, ornamental or retaining wall located within 70 metres of the intersection of any two or more streets shall not exceed a height of one metre with the height measured from the surface of the intersecting road.

Transportation Services is requesting authority to permit the installation of the wooden fence and enter into an encroachment agreement with the property owner, subject to conditions based on the attached plans and applicable By-laws.

RECOMMENDATIONS

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

1. North York Community Council authorize the General Manager of Transportation Services to permit the installation of the 1.8 metre high wooden fence and enter into an encroachment agreement with property owner of 140 Clanton Park Road, 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 upon receiving written notice to do so;
- 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 August 9, 2022, from the owners of 140 Clanton Park Road requesting permission to construct and maintain a 1.8 metre high wooden fence within the public right-of-way on the flanking street, Kainona Avenue at 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, shall not exceed one metre in height measured from the roadway grade.

As the proposed height of the fence exceeds the maximum 1.0 metre height requirement under Chapter 743, Streets and Sidewalks, Use of, the General Manager of Transportation Services is not authorized to issue a permit or enter into an agreement

for the encroachment. An appeal was subsequently received from the property owners, for which this report has been prepared.

A site plan of the proposed fence showing the encroachment as shown in Attachment 1.

Transportation Services has determined that the proposed fence does not cause any sightline obstructions at the intersection of Clanton Park Road and Kainona Avenue. Urban Forestry was consulted and has no objection to the two trees that are to be enclosed within the fence.

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

CONTACT

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SIGNATURE

Antonia Markos
Director, Permits and Enforcement, Transportation Services

ATTACHMENTS

Attachment 1: Site Plan of the Proposed Fence - 140 Clanton Park Road
Attachment 2: Fence Detail and Elevation - 140 Clanton Park Road
Attachment 3: Photos of Encroachment - 140 Clanton Park Road

The site plan illustrates a residential property layout. A yellow line indicates a 'NEW FENCE' that encroaches into the City boulevard. The property is divided into several areas: a 'LAWN' at the top, a 'PLAYGROUND RUBBER FLOOR' containing a 'SWING SET', and another 'LAWN' at the bottom. A 'SEATING AREA - PRECAST PAVERS' is located on the left, adjacent to a 'FIRE PIT TABLE'. Two 'EX. TREE' (existing trees) are marked with dimensions. A '6" CONCRETE CURB' runs along the top and right edges. A 'WALKWAY' is shown at the top right. The 'Property Line' is indicated by a dashed line. Dimensions for various features and setbacks are provided, such as '15'-5 3/4"', '18'-0 3/4"', and '10'-0 1/4"'. A note at the bottom right states 'Fence encroaching into City boulevard'. A note at the bottom left mentions '20" X 30" PRECAST STEPPING STONES'.

Diagram illustrating the structure and dimensions of a wooden frame or enclosure:

- Span:** $\pm 2.25\text{m}$ Spans
- Height:** 1.8m Height
- Posts:** 14cmx14cm Posts
- Boards:** Wood Boards with 1.25-2.5cm spacing

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Attachment 3: Photos of Encroachment- 140 Clanton Park Road



