

Encroachment Appeal – 105 Yonge Boulevard

Date: March 13, 2024

To: North York Community Council

From: Director, Permits and Enforcement, Transportation Services

Wards: Ward 8 – Eglinton - Lawrence

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 105 Yonge Boulevard. The encroachment consists of a 1.8 metres high aluminum panel fence at Felbrigg Avenue which is within 70 metres of the intersection at Yonge Boulevard.

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 state the following:

743 – 34A (2) (a) (1) - 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 aluminum 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 enter into an encroachment agreement with the property owner of 105 Yonge Boulevard, to permit the installation of a 1.8 metre high aluminum panel fence on the flank of the subject premises within the public right-of-way, 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.
- f. The proposed fence is not to be utilized as a primary enclosure fence for any pool located on the subject property.

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 from the owner of 105 Yonge Boulevard, requesting permission to construct a 1.8 metre high aluminum panel fence within the public right-of-way on the flanking street, Felbrigg 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 provisions for the encroachment subject to this appeal are that a fence located within 70 metres of an intersection, of two or more roadways, shall not exceed 1.0 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 fence encroachment. An appeal was subsequently received from the property owners, for which this report has been prepared.

A site plan showing the proposed fence encroachment has been submitted and is included as an attachment in this report. Transportation Services has determined that the proposed fence does not cause any sightline obstructions at the nearby intersections of Yonge Boulevard and Fellbrigg Avenue.

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

CONTACT

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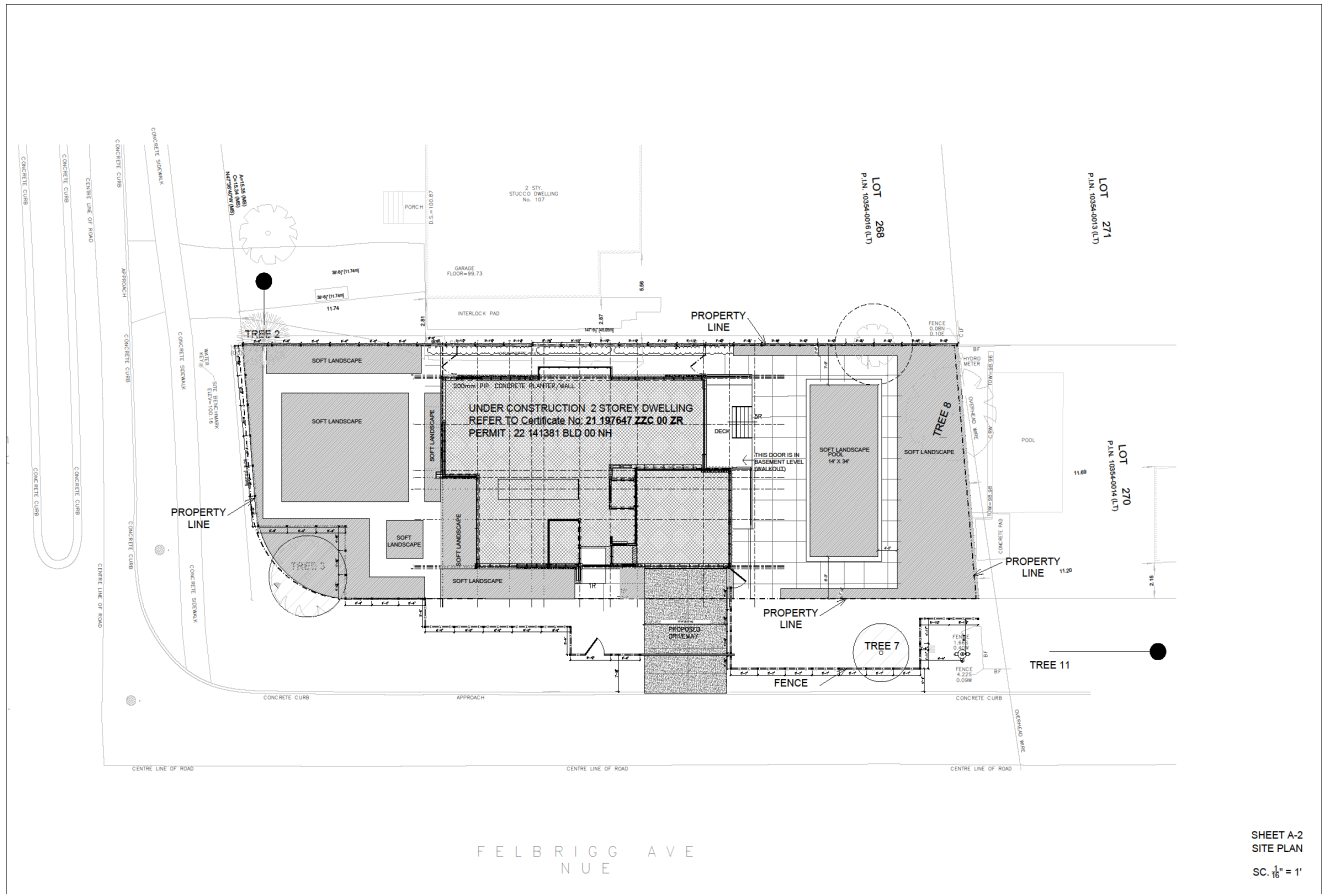
SIGNATURE

Antonia Marcos
Director, Permits and Enforcement, Transportation Services

ATTACHMENTS

Attachment 1: Site Plan of the Proposed Fence
Attachment 2: Site Photos

Attachment 1: Site Plan of Proposed Encroachment



Attachment 2: Site Photo #1



Attachment 3: Site Photo #2



Attachment 4: Site Photo #3

