

## **Encroachment Appeal - 308 Delaware Avenue**

**Date:** July 2, 2024

**To:** Toronto and East York Community Council

**From:** Director, Permits and Enforcement, Transportation Services

**Wards:** Ward 9, Davenport

### **SUMMARY**

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

The purpose of this report is for Toronto and East York Community Council to consider an appeal from the property owner of 308 Delaware Avenue regarding their encroachment application.

The property owner is seeking authority from Toronto and East York Community Council to permit a 1.98m high wooden privacy fence to be constructed and maintained within the public right-of-way on the Shanly Street flank with a vision splay provided for pedestrians and motorists at the intersection of the existing driveway and the sidewalk at 308 Delaware Avenue using open screen fencing.

### **RECOMMENDATIONS**

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

1. Toronto and East York Community Council authorize the General Manager of Transportation Services to enter into an encroachment agreement with the property owner of 308 Delaware Avenue, to permit full privacy wooden fencing with a vision splay provided for pedestrians and motorists at the intersection of the existing driveway and the sidewalk, 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 wooden fencing 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 wooden fencing upon receiving written notice to do so;

e. The property owner shall agree that the City and/or utility companies may remove the encroachments at any time in order to install or maintain services within the affected public right of way with no obligation to replace them;

f. No spikes or pointed tops are permitted on the fence; and

h. 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**

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

## **DECISION HISTORY**

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This report addresses a new initiative.

## **COMMENTS**

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An encroachment application was received on January 29, 2024, from the owners of 308 Delaware Avenue requesting permission to construct and maintain a wooden privacy fence within the public right-of-way on the Shanly Street with a vision splay provided at the intersection of the existing driveway and the sidewalk at the subject premises.

Transportation Services has reviewed the application and the property located at 308 Delaware Avenue. The proposed encroachment has deficiencies that contravene Code Chapter 743. The deficiencies include the following:

- The proposed full privacy wooden fence will be built to a height of 1.98 metres which contravenes Municipal Code Chapter 743 article 743-34A.(2)(a) "A fence located within a street can be built to a maximum height of 1.20 metres for that portion of the fence fronting the property, and 1.80 metres for any fence located in the flankage of the property, provided that to ensure unobstructed driver and pedestrian sight lines"

- The proposed full privacy wooden fence will be built to a height of 2.0 metres which contravenes the Municipal Code Chapter 743 article 743-34A.(2)(a)[1] requirement that "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 exceed a height of one metre, with the height measured from the surface of the intersecting road"

The applicant was notified that the proposed full wooden privacy fence is ineligible for an encroachment agreement and an appeal was subsequently received from the property owner.

As required by Section 743-48 of the Toronto Municipal Code, Transportation Services has responded to the appeal by preparing this report for Toronto and East York Community Council consideration and to provide the applicant with an opportunity to be heard.

Transportation Services recommends Toronto and East York authorize the encroachment in its proposed configuration with a vision splay provided for pedestrians and motorists at the intersection of the driveway and sidewalk on the Shanly Street flank of the premises.

A site plan of the proposed fence encroachment and photos of the property at 308 Delaware Avenue are shown in Attachments 1-4.

## **CONTACT**

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## **SIGNATURE**

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Antonia Markos  
Director, Permits and Enforcement, Transportation Services

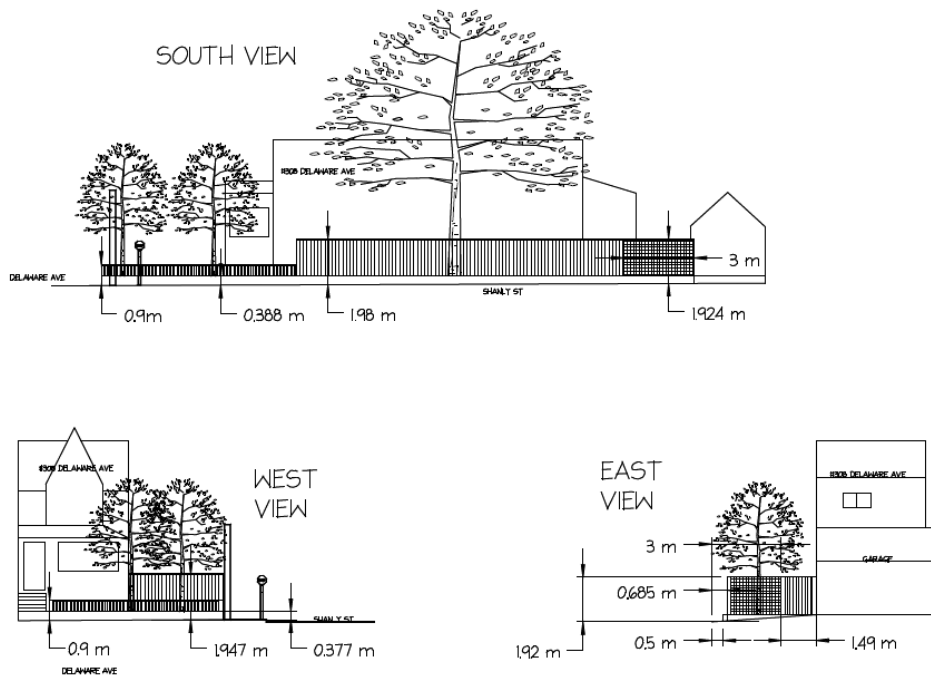
## **ATTACHMENTS**

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Attachment 1: Site Plan of Proposed Encroachment - 308 Delaware Avenue  
Attachment 2: Elevation and Cross-section Drawing of Proposed Encroachment - 308 Delaware Avenue  
Attachment 3: Photos of the Shanly St flank of 308 Delaware Avenue  
Attachment 4: Photos of the open screen fencing applicant has indicated to be used for the vision splay at the intersection of the existing driveway and the sidewalk



Attachment 2: Elevation and Cross-section Drawing of Proposed Encroachment - 308 Delaware Avenue



308 DELAWARE AVE

ALEX ESHWERS-RAGHAR, DESIGNER  
LITTLE BLUE DESIGN+CODE

JUNE 5, 2024  
SCALE: 1/8"=1'-0"

Attachment 3: Photo of the Shanly St flank of 308 Delaware Avenue



Attachment 4: Photos of the open screen fencing applicant has indicated to be used for the vision splay at the intersection of the existing driveway and the sidewalk

