

Encroachment Appeal – 45 Montye Avenue

Date: August 27, 2025

To: Toronto East York Community Council

From: Director, Permits and Enforcement, Transportation Services

Wards: Ward 4, Parkdale-High Park

SUMMARY

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 East York Community Council to consider an appeal from the property owner of 45 Montye Avenue regarding their encroachment application. The encroachment consists of a wooden fence which is in contravention of City of Toronto Municipal Code Chapter 743, Streets and Sidewalks, Use Of.

The property owner is seeking authority from Toronto East York Community Council to allow a wooden fence to be maintained within the public right-of-way at 45 Montye Avenue, which is in contravention of Toronto Municipal Code Chapter 743, Streets and Sidewalks, Use Of.

RECOMMENDATIONS

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

1. Toronto East York Community Council authorize the General Manager of Transportation Services to enter into an encroachment agreement with property owner of 45 Montye Avenue, to permit a wooden fence, subject but not limited 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; and
- b. Maintain the wooden 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, and

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; and

d. Remove the wooden fence 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; and

f. No spikes or pointed tops are permitted on the fence, gate or pillars.

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 May 29, 2025, from the owners of 45 Montye Avenue requesting permission to maintain a wooden fence within the public right-of-way on Lane East Jane North Annette flank of the subject premises. The applicant was notified that the wooden fence is not eligible for an encroachment agreement as it was built to a height of 1.96m which exceed what is permitted in Municipal Code Chapter 743, Streets and Sidewalks, The Use Of. An appeal was subsequently received from the property owner.

Transportation Services has reviewed the application and the property located at 45 Montye Avenue. The proposed encroachment contravenes Code Chapter 743 as follows:

- The wooden fence was built to a height of 1.96 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"

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 have reviewed the application, and staff is of the opinion that the wooden fence 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 Toronto and East York authorize the encroachment in its existing configuration.

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

A drawing of the encroachment and digital photos of the existing wooden fence are included in Attachments 1 and 2.

CONTACT

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SIGNATURE

Antonia Markos
Director, Permits and Enforcement, Transportation Services

ATTACHMENTS

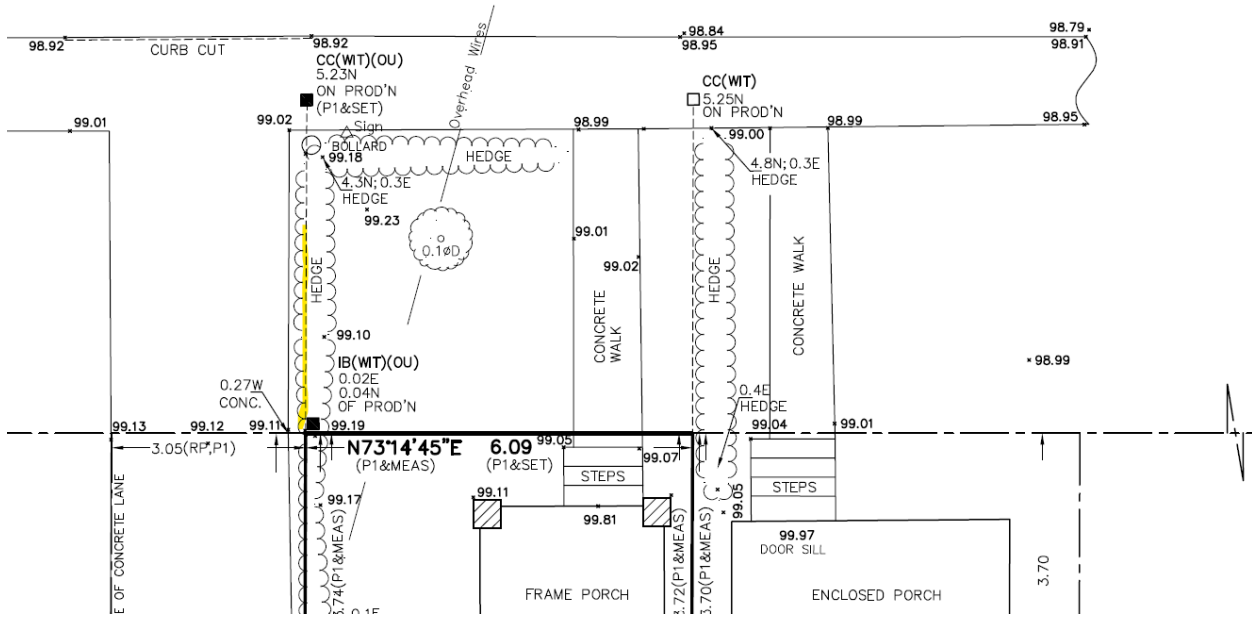
Attachment 1: Drawing of Existing Encroachment – 45 Montye Avenue
Attachment 2: Photos of Existing Encroachment – 45 Montye Avenue

Attachment 1: Drawing of Existing Encroachment - 45 Montye Avenue

MONTYE AVENUE

(BY REGISTERED PLAN 893-Y)

PIN 10520-0756



Attachment 2: Photos of Existing Encroachment – 45 Montye Avenue

