



Report to: Council

Meeting Date: November 26, 2019

SUBJECT: 8 John Lyons Road Tree Removal Permit
PREPARED BY: Tanya Lewinberg – Public Realm Coordinator

RECOMMENDATION:

1. That the report entitled “8 John Lyons Road Tree Removal Permit” be received for information; and
2. That Staff be authorized and directed to do all things necessary to give effect to this resolution.

PURPOSE:

The purpose of this report is to provide background information on the tree permit application denied to 8 John Lyons Road in 2019, and the tree permit issued to 7 John Lyons Road for the removal of two Black Walnut trees in 2014.

BACKGROUND:

A tree removal permit application was received from Mr. Koehn of 8 John Lyons Road. Mr. Koehn cited: “The walnuts that fall from the tree pose a threat to my baby grandson” as the reason for the application. John Lee one of the City’s Tree Preservation Technicians inspected the tree on April 10, 2019 to determine if a permit was applicable. The Black Walnut tree is 71.5cm DBH (DBH = diameter at breast height measured at 1.37 metres up from at grade base of the tree), and it is approximately 25 metres in height. The tree’s estimated age is approximately 70 years old. Images of the subject tree are attached to this report as Attachment A. A second assessment of the tree was also conducted by another Tree Preservation Technician, Mark Goldsworthy, on June 18, 2019. The second assessment also did not support the removal of this tree. A denial letter was sent to Mr. Koehen on April 11, 2019; included as Attachment B.

The permit was denied because the subject tree is healthy, with no diseases or structural defects. There are no physiological or environmental indicators that would suggest that the subject Black Walnut is likely to decline significantly in health or structural stability. This tree has no pests, diseases or defects that would compromise its health or structural stability long term. The trunk was sounded using a nylon sounding hammer and no pockets of decay were found. The canopy is full with no dieback. All unions on the tree were well structured and no included bark was found. Based on the conclusions of the assessment, the Black Walnut does not qualify for a permit or a permit exemption under the stipulations outlined by the Tree Preservation By-law.

Upon receiving the denial letter Mr. Koehen requested an appeal, which took place on September 13, 2019. John Lee prepared a report for the Licensing Committee entitled

“*Report for Appeal Hearing – 8 John Lyons Road*” attached to this report as Attachment C.

While providing testimony at the appeal hearing, Mr. Koehn discussed the removal of Black Walnut trees on the neighbouring property at 7 John Lyons Road, as well as illustrating the impact of falling walnuts on his property and his concerns for his grandson’s safety during the harvest period for the walnuts.

OPTIONS/ DISCUSSION:

7 John Lyons Road

The original permits and documentation were requested from Markham’s archival records as the current team was not directly involved with 7 John Lyons Road permit issuance.

The tree permit application requested approval for the removal of three Black Walnut trees in the rear yard of 7 John Lyons Road. The Black Walnuts measured 32.5cm DBH, 45cm DBH and a multi-stemmed tree with DBHs of 38.5cm and 60cm. The two smaller Black Walnut trees were approved for removal. One of which had previously sustained injury and was in less than ideal condition. The request to remove the largest of the three trees, the multi-stemmed tree, was not approved for removal, and the tree remains in good health and structure to date. No further tree permit applications or correspondence regarding safety in the rear yard of 7 John Lyons Road have been received by City Staff.

The tree permit is attached to this report as Attachment D for 7 John Lyons Road was initially issued on December 18, 2013, and expired on March 6, 2014. A subsequent permit for the same trees was issued on March 6, 2014 with an expiry date of June 4, 2014 is attached to this report as Attachment E.

Alternative to Removal

It should be noted that the period of Black Walnut harvest season, is typically the shortest of all fruiting trees and occurs the last weeks of September and first weeks of October.

Tree Preservation Technicians had previously provided alternative solutions by means of chemical treatment to inhibit fruiting of walnuts. Further investigation has revealed these solutions as only available in the United States at this time. The active ingredient glyphosphosate is available for sale in Canada as herbicide at a different concentration, however it is not approved for use as a deflowering agent.

Not Far From the Tree, is a nonprofit organization dedicated to connecting property owners with volunteers, so that excess fruit can be harvested and distributed to the local community. The property owner can register their tree, and contact the group when their fruit is ready for harvesting, then *Not Far From the Tree*, will send volunteers to pick the fruit and clean up the yard. The harvested fruit may be shared: 1/3rd to the home owner, 1/3rd to the volunteers and 1/3rd is delivered to one of their participating social agencies, including food banks, or community kitchens. The harvesting of black walnut by the

volunteer group would greatly reduce the number of walnuts in the subject tree, thereby significantly minimizing the risk caused by falling walnuts.

Another alternative is to construct a structure that would provide cover that could be used during Black Walnut harvest.

Since the timing of harvest season for Black Walnut is in late September and October when residents tend not to use their yards for extended outdoor activities it permits the opportunity for residents to avoid falling black walnuts. Residents can and have coexisted with Black Walnut trees hence most municipalities have not excepted them from protection in their bylaws due to falling fruit/nuts.

Tree Appraisal / Replanting

In an effort to provide information on the value of the Black Walnut tree at 8 John Lyons Road, a tree appraisal was completed in preparation for this report, included as Attachment F. The appraisal provides a value for a location assessment, and the contribution assessment of the subject tree. The appraised value of this tree is equal to approximately 34 - 60mm caliper trees or \$20,141.64. In instances of illegal removals where the size and condition of a tree is unable to be determined, a By-law order with replanting conditions would be applied using a 6:1 ratio or cash-in-lieu at \$600 per tree. The cost per tree is reduced to \$300 per tree for approved replanting conditions (i.e. not illegal removals).

The Tree Preservation Technicians rely on the Tree Preservation By-law (2008-96) to guide their reviews. The Tree Preservation Technicians enforce the Tree Preservation By-law in a consistent manner based on biology, physiology and arboricultural best practices.

In addition to the site related attachments, a City of Toronto, Report for Action from 2017, entitled "*Black Walnut Trees in Toronto*", in which Toronto Public Health was consulted, and is mostly regarding allergic reactions to the walnuts has been included as Attachment G.

ALIGNMENT WITH STRATEGIC PRIORITIES:

The Tree Preservation By-law is aligned with the strategic priority of providing Safe, Sustainable and Complete Community, to enhance the natural environment.

RECOMMENDED BY:

Morgan Jones
Director, Operations

Brenda Librecz
Commissioner, Community & Fire
Services

ATTACHMENTS:

Attachment A - 8 John Lyon's Road Tree Images

Attachment B - 8 John Lyons Rd - Denial Letter

Attachment C - Report for Appeal Hearing - 8 John Lyons Road

Attachment D - TP - John Lyons Road 7 2013

Attachment E - TP - John Lyons Road 7 2014

Attachment F - 8 John Lyons Rd- Appraisal

Attachment G- Black Walnut Trees in Toronto - Report for Action