



Report to: Committee of the Whole

Date of Meeting: June 27, 2006

SUBJECT: Approval of Encroachment in respect of a Fence
Encroachment at 40 Limcombe Drive, Thornhill

PREPARED BY: Catherine M. Conrad, Town Solicitor

RECOMMENDATION:

That the Mayor and Clerk be authorized to execute an encroachment agreement with the owners of 40 Limcombe Drive, Thornhill to permit a fence encroachment as described in this report.

EXECUTIVE SUMMARY:

Not applicable

FINANCIAL CONSIDERATIONS:

Not applicable

PURPOSE:

To obtain authorization for the Mayor and Clerk to execute an Agreement between the owners of 40 Limcombe Drive and the Town of Markham, in a form satisfactory to the Town Solicitor.

BACKGROUND:

By By-law 16-95, the Chief Administrative Officer, on the recommendation of the Director of Engineering and Director of Legal Services, was delegated authority to approve the execution of encroachment agreements where a structure or building encroached on a Town easement/right-of-way or a road/highway where the encroachment was minor in nature. A copy of By-law 16-95 is attached hereto as Appendix A.

A number of situations have arisen recently where staff have received requests for encroachment agreements but the encroachment does not fall within an easement/right-of-way or road/highway as outlined in By-law 16-95. These requests have been for an encroachment onto parkland, walkways etc. and there is no authority to have these agreements executed. Absent Council authority, each of these applications has to be reported to Council.

OPTIONS/ DISCUSSION:

The owners of 40 Limcombe Drive, Thornhill are requesting permission for a new fence to encroach approximately two feet into the Town's walkway (Old English Lane and Limcombe Drive). The property line on the north side of 40 Limcombe Drive is adjacent to the walkway. The owners' wooden fence runs along the property line and there are several large mature trees that run parallel to the fence. Over time, the trees have grown and the tree trunks are buckling, breaking or leaning against the fence, as shown on the photos attached as Appendix B.

The owners wish to relocate a portion of the fence northward approximately two feet into the Town's walkway at their own expense.

Our Operations Divisions have advised that they have no concerns with the Town permitting the requested encroachment and entering into an encroachment agreement with the owners of 40 Limcombe Drive.

FINANCIAL TEMPLATE:

None

ENVIRONMENTAL CONSIDERATIONS:

None

ACCESSIBILITY CONSIDERATIONS:

None


ENGAGE 21ST CONSIDERATIONS:


None

BUSINESS UNITS CONSULTED AND AFFECTED:

Roads and Parks – Operations Divisions

**RECOMMENDED
BY:**


Catherine M. Conrad
Town Solicitor


John Livey, C.A.O.

ATTACHMENTS:

Appendix A - By-law 16-95

Appendix B – Photo of Existing Fence at 40 Limcombe Drive, Thornhill

ATTACHMENT "A"

16-95

To authorize execution of
minor Encroachment Agreements

The Council of The Corporation of the Town of Markham hereby enacts as follows:

1. The Chief Administrative Officer, on the recommendation of the Director of Engineering and Director of Legal Services, is hereby delegated the authority to approve the execution of encroachment agreements where a structure or building is encroaching on:
 - (a) a Town easement or right-of-way; and
 - (b) a Town road or highway where the encroachment is minor in nature.
2. Upon approval of the Chief Administrative Officer, as provided for in Section 1. above, the Mayor and Clerk may execute the encroachment agreement in a form satisfactory to the Town Solicitor.

READ A FIRST, SECOND, AND THIRD TIME AND PASSED THIS
31ST DAY OF JANUARY, 1995.

BOB PANIZZA, TOWN CLERK

DON COUSENS, MAYOR

ATTACHMENT "B"

