



REPORT

Council

Meeting Date: April 29, 2024

FROM: Parks and Open Space Department
DATE: April 16, 2024
SUBJECT: Encroachment Agreement - Lakeside Park
LOCATION: 144 Front Street
WARD: Ward 3

Page 1

RECOMMENDATION:

That staff be authorized to enter into an Encroachment Agreement between the Town and the owner of 176 Front Street on the terms set out in the report from the Parks and Open Space department dated April 16, 2024, for a picket fence to encroach into Lakeside Park for approximately 12 sq. m.

KEY FACTS:

The following are key points for consideration with respect to this report:

- Mr. and Mrs. Rinas own the property at 176 Front Street beside Lakeside Park.
- For many years there has been a white picket fence from 176 Front Street encroaching into the adjacent Lakeside Park by approximately 5 feet.
- The Rinas are in the process of rebuilding this fence but cannot move the fence to the property line without removing two mature trees and evergreen shrubs.
- Parks staff are recommending allowing the fence to remain in its current location encroaching on the park to preserve these two mature trees and evergreen shrubs.
- If Council agrees to the fence encroachment, staff will work with the Rinas to enter into an encroachment agreement to permit the fence to remain on Town lands for the life of these trees, or until the Town decides it must be removed.

BACKGROUND:

Mr. and Mrs. Rinas own the property at 176 Front Street beside Lakeside Park (144 Front Street). Mr. and Mrs. Rinas have been undertaking a significant rebuild of their heritage home. They are in the final stages of their home renovation – landscape works.

For many years there has been a white picket fence between 176 Front Street and the adjacent Lakeside Park. For years, this side yard fence has encroached into Lakeside Park for its entire length. The previous owners had permitted access through the park from Thomas Street to a rear yard gate in the picket fence. This permitted access was removed through the processing of development applications for the Rinas' home renovation.

As part of the final landscape works the Rinas wish to rebuild the previous white picket fence along the side yard of their property. Unfortunately, 2 mature trees along the property line negates the ability to install the fence on the property line for approximately 30 feet south of Front Street. To retain the mature trees, and not encumber a very mature planting of Yews (evergreen shrubs), the Rinas have requested the picket fence be allowed to encroach into Lakeside Park for approximately 5 feet and be constructed for an approximate length of 30 feet before the fence returns into 176 Front Street. The total encroachment would be approximately 12 square metres and is shown in Appendix A.

Parks staff are supportive of the proposed realignment of the picket fence onto Town property, thereby protecting the mature boundary trees and the mature vegetation within 176 Front Street. However, this encroachment must be formalized through an encroachment agreement and registered on title of the municipal property 176 Front Street to warn future owners.

Council approval of an encroachment agreement is requested.

COMMENT/OPTIONS:

It is very rare that Parks and Open Space recommend approval of an encroachment agreement onto Town parkland. Parkland is acquired for the benefit of all residents of Oakville. However, in this instance of the request from the homeowners at 176 Front Street, Parks staff believe there is good rationale to recommend Council approve the encroachment of the white picket fence into Lakeside Park.

To install the fence on the property line (P/L) would require constructing the fence around 2 very mature boundary trees. Installing the number of fence posts to accommodate the trees would be extremely invasive to the roots of both trees. For certainty primary roots would be severed which would more than likely destabilize both trees which could place them into high risk for failure. Moving the fence into the private property at 176 Front Street will for certain damage a number of very mature

Yews (evergreens) which are part of the heritage property. A better option would be to allow the fence to encroach into parkland (Lakeside Park) for approximately 5 feet into and then extend the fence approximately 30 feet paralleling the P/L of Lakeside Park/176 Front Street, and then returning the fence into 176 Front Street and aligning the fence to the P/L. For this section, staff would prefer the fence be placed 100 mm inside the P/L, so the homeowner has perpetual care of the white picket fence. Staff are using approximations for distances because both mature trees have flare roots, and the preference is to install the fenceposts without damaging the anchoring/primary roots of the trees. Hence the encroachment into the park could be 5 or 5.5 feet and the distance 30 or 32 feet. Once the fence has been installed, the exact sq m of encroachment will be calculated.

The fence encroachment into Lakeside Park is not impacting the public use of the park. The side of the park paralleling 176 Front Street is open lawn area with no amenities and is not used during special events held at the park. Lastly, the proposed new white picket fence will complement the existing Lakeside Park picket fences along Front Street as well as many of the properties within the heritage district south of Robinson Street.

This incursion into the park would be articulated through an Encroachment Agreement. The Agreement would stipulate that upon the request of the Town or the removal of the 2 boundary trees due to their death, the encroaching section of fence would be removed and reinstated to the P/L and align with the other section of picket fence. Given the health of the trees staff are recommending the agreement be registered on title of the property to warn any future owners of 176 Front Street about the requirement to move the fence upon death of the boundary trees.

Parks forestry staff would continue maintaining/protecting the mature boundary trees as has been the past practice and this has been communicated to the homeowners at 176 Front Street.

CONSIDERATIONS:

(A) PUBLIC

The encroachment agreement for the picket fence to extend into Lakeside Park will have no new impact to the public on using and enjoying Lakeside Park since this fence has existed in this location for many years.

(B) FINANCIAL

The residents would be required to complete all necessary paperwork associated with the Encroachment Agreement and pay the fee as stipulated in the 2024 rates and fees.

(C) IMPACT ON OTHER DEPARTMENTS & USERS

This report has been prepared with the assistance of the Legal department.

(D) COUNCIL STRATEGIC PRIORITIES

This report addresses Council's Strategic Priorities that include environmental sustainability, accountable government, and community belonging.

(E) CLIMATE CHANGE/ACTION

Approving the encroachment agreement thereby protects the two (2) boundary trees. As trees grow, they absorb and store the carbon dioxide emissions that are driving global warming. Trees also improve soil and water conservation, store carbon, moderate local climate by providing shade, regulate temperature extremes, increase wildlife habitat and improve the land's capacity to adapt to climate change. Protecting existing trees and tree planting are the biggest and most inexpensive ways of removing CO2 out of the atmosphere to tackle the climate crisis.

APPENDICES:

Appendix A – Illustration of Encroached Area into Lakeside Park

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