



STAFF REPORT

Meeting Date: March 14, 2022

Title: 20 King Street Encroachment Agreement

Prepared By: Pamela Skillen, Chief Building Official

Department: Building and Planning

Report Number: Building & Planning-2022-004

Recommendation:

THAT Council provide direction to staff to bring forward the attached by-law to authorize the execution of an Encroachment Agreement between the City of Dryden and 270396 Ontario Inc. to allow for encroachment on title; and,

THAT the Mayor and Clerk be authorized to sign all documentation associated with this agreement.

Background:

In October 2020, the owner of 20 King Street approached both the Building and Planning and Public Works Department for a review of plans for an entry platform and accessible ramp structure to be located on the North side of 20 King Street. The original plans submitted for the construction of this building did not include an entry at this location. Changes to accommodate the new proposed use of part of the building created the desire to provide an accessible entry direct from the exterior. To accomplish this and to meet Ontario Building Code requirements, the entry platform and accessible ramp required encroachment onto the municipal sidewalk.

Public Works was on site before construction of the entry and reviewed the proposed construction to ensure it did not adversely affect municipal operations for snow clearing or interfered or obstructed normal pedestrian use.

Public Works had no objection to the proposed encroachment as it met the criteria to warrant consideration and approval. Through this staff report and attached agreement, staff have identified the encroachment, protected the City's interests, and required registration on title, thus the Building and Planning Department recommends that the Encroachment Agreement be executed.

Discussion:

Typically, if an encroachment is identified, the city may require the encroachment to be removed and the lands returned to its original state to the satisfaction of The City. All costs related to the removal of the encroachment shall be at the encroaching party's expense. There may be situations that warrant the City's consideration to authorize private encroachments on municipal property. In considering the merits of the request for the encroachment, Staff and ultimately Council shall consider the following:

- Does the encroachment create an unsafe condition or pose a danger to the public such as but not limited to: impedes sight lines, impedes normal access, obstructs vision of traffic or pedestrians, creates operational conflicts, or creates hazards during the winter season when snow covers the ground etc.?
- Does the encroachment diminish the public's right of usage, such as, but not limited to: impedes the public's passage and/or access along a traveled portion of a road, or interferes or obstructs normal pedestrian or bicycle use?
- Is the applicant able to reasonably demonstrate a need for the encroachment?
- Does the encroachment interfere with the City's intent and purpose in holding the city-owned land?
- Construction of the encroachment has commenced prior to the issuance of a required building permit or required approval from the City.
- The encroachment enlarges an existing encroachment.
- Would fencing be required to delineate the area of the municipal property?
- Does the encroachment adversely affect municipal operations, work, plans, efforts, or initiatives of the city to maintain municipally owned lands or undertake capital work projects?
- Does the encroachment interfere with any utility or other similar installation located on City-owned lands including underground infrastructure?
- Does the encroachment create a situation that is contrary to any Municipal By-law, City policy or resolution or any provincial or federal regulation or legislation?

On approval by Council, the applicant will be required to pay all costs associated for the registration of the Encroachment Agreement on title. The encroachment agreement requires the encroaching party to provide proof of insurance, naming the Corporation of the City of Dryden as an additional insured.

It should be noted, as per the agreement, that should the building be reconstructed due to fire, demolition or otherwise, then the reconstruction will be done to ensure the encroachment is removed.

Financial Implications:

Encroachment Agreement Fee paid to the City - \$264.00

Current Budget Allocation: N/A

Account #:

Attachments (Reference Material):

Draft Encroachment By-law

Signed Encroachment Agreement and Schedules