

Fence By-law Variance Request - 23 Harnish Crescent - North York Centre

(City Council on December 14, 15 and 16, 1999, adopted this Clause, without amendment.)

The North York Community Council recommends the adoption of the following report (November 17, 1999) from the District Manager – North, Municipal Licensing and Standards and Court Services:

Purpose:

To report on an application (September 15, 1999) received from Mr. Murray Smith, requesting an exemption from North York By-Law 30901, as amended.

Financial Implications and Impact Statement:

There are no financial implications for the City with regard to this matter.

Recommendations:

It is recommended that this application be approved, subject to:

- (1) the rear east side fence being brought into compliance;
- (2) the fencing at the north-west corner of the rear yard be cut back on a 45 degree angle to provide visibility for the neighbour to the north (9 Harnish Crescent) to egress the driveway;
- (3) a secondary fence in compliance be erected in the west side yard or plexiglass be installed on the exterior of the wrought iron gates at least 1.2m (4 feet) high in the west side yard and the latching device be raised to a minimum 1.5m (5 feet) above grade.

It is recommended that completion of these conditions be carried out by April 30, 2000, due to a recent health problem experienced by Mr. Murray Smith.

Background:

The former City of North York enacted the Fence By-Law 30901 on July 28, 1989, being a by-law prescribing the height and description of lawful fences in the former City of North York, and for requiring the owners of privately owned outdoor swimming pools to erect and maintain fences and gates around such swimming pools.

On July 30, 1999, a Notice of Violation was issued to the owners of this property concerning deficiencies with regard to the swimming pool enclosure.

Section 2.3.6 of the by-law requires a minimum of 1.2m (4 feet) from any part of the enclosure to the edge of the water contained in the pool (item #1 on the Notice of Violation).

Section 2.5.1 (b)(ii) of the by-law requires a minimum of 19mm x 89mm (1" x 4") nominal lumber to be used on a wooden fence (item #2 on the Notice of Violation).

Sections 3.1.12 and 3.1.13 of the by-law provides for a minimum height of 0.76m (30 inches) for a fence which is parallel and within 2.40m (8 feet) or a driveway on an abutting property (item #3 on the Notice of Violation).

Comments:

The erection of the proposed fence on the west side lot line would not create a site obstruction provided the north-west corner is cut back on a 45 degree angle. The distance from the enclosure to the edge of water in the swimming pool can only be resolved by having the neighbour to the north (9 Harnish Crescent) remove a portion of his driveway and concrete sidewalk.

Conclusions:

This application is for an exemption from the provisions of North York By-Law 30901, as amended. We would recommend approval of this application for the distance from the north side of the enclosure to the edge of the water in the swimming pool and the fence along the rear west property line subject to the enclosure being cut back on a 45 degree angle at the north-west corner of the enclosure to alleviate a sight obstruction for the residence to the north (9 Harnish Crescent) when egressing their driveway.

In addition, we recommend the enclosure on the east side be replaced with a complying fence and the wrought iron gates at the south-west corner of the enclosure be covered on the exterior with 1.2m (4 feet) high plexiglass panels and the latching device be moved to 1.5m (5 feet) above grade to prevent climbability. Due to a recent health problem experienced by Mr. Murray Smith, we recommend the above provisions be completed by April 30, 2000.

Contact:

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