

Consolidated Clause in Etobicoke York Community Council Report 9, which was considered by City Council on December 5, 6 and 7, 2005.

3

**Application for an Exemption from the City of Toronto
Municipal Code, Chapter 447, Fences - 74 Elmcrest Road
(Ward 13 - Etobicoke Centre)**

City Council on December 5, 6 and 7, 2005, adopted this Clause without amendment.

The Etobicoke York Community Council recommends that City Council approve the exemption to the provisions of the City of Toronto Municipal Code, Chapter 447, Fences to permit the height of all the columns of the fence at 74 Elmcrest Road, to be a maximum of 1.4 metres (4 feet, six inches).

The Etobicoke York Community Council submits the report (November 3, 2005) from the Manager, Municipal Licensing and Standards, Etobicoke York District:

Purpose:

The applicant, being the agent for the owner of 74 Elmcrest Road, is seeking approval for an exemption to the provisions of the City of Toronto Municipal Code, Chapter 447, Fences, to complete construction of a wrought iron fence with stone columns measuring between 1.4 and 1.8 metres in the front yard of the property. Municipal Licensing & Standards staff were requested to conduct a visual survey of the general vicinity and report their findings to the November 15, 2005 meeting.

Financial Implications and Impact Statement:

There are no financial implications arising from this report.

Recommendations:

It is recommended that Etobicoke – York Community Council recommend to Council that the application be refused as the height of the columns exceeds the height provision of the City of Toronto Municipal Code Chapter 447, Fences.

Background:

On May 9, 2005, Municipal Licensing & Standards received a complaint that a wrought iron fence with concrete stone posts was being constructed at the front of the property with a height in excess of 1.2 metres (4 feet) (Attachments #1, #2 and #3). An inspection of the property on

May 10, 2005 revealed seven stone pillars had been constructed at the front of the property near the front property line. Five were constructed 1.52 metres high (5 feet) and measured 0.61 metres square (2 feet by 2 feet) and two (2) were constructed at 1.83 metres high (6 feet) and measured 0.76 metres square (2 feet 5 inches by 2 feet 5 inches).

Comments:

The City of Toronto Municipal Code, Chapter 447, Section 447-2, Fences, provides that the maximum permitted height of a fence located in the front yard of a residential property be no higher than 1.2 metres (4 feet), for an open mesh chain-link fence or equivalent open fence that does not restrict sight lines and 1 metre in height (3 feet 3 inches) for any other type of fence.

The proposal submitted by the applicant is to construct a wrought iron open picket fence with a height of 1.2 metres (4 feet), and five columns at a height of 1.4 metres (4 feet 6 inches). Review of the proposal and submitted plans determined the proposed columns will be approximately 0.2 metres (12 inches) higher than the maximum permitted height for a fence located in a front yard, on a residential property. However, inspection of the property conducted on May 10, 2005 determined that the columns were not constructed in accordance with the plans submitted and that no further revised plans were submitted for consideration by City staff. As such the applicant is now seeking an exemption to permit the columns to remain as constructed, not necessarily in accordance with their original submission.

This matter was before Etobicoke – York Community Council on October 18, 2005. Community Council deferred consideration and requested staff from the Municipal Licensing & Standards division to conduct a survey of any similar fence structures within the general community, clarify the height of the columns as constructed and report the findings to the November 15, 2005 meeting.

The boundaries of the survey conducted by staff were, Rathburn Road east to Renforth Drive, south to Burnhamthorpe Road, west to Mill Road and north to Rathburn completing a radius and including all streets located within those boundaries. Staff's survey identified 3 locations with decorative brick columns, utilized as light standards on private property. These locations were 33 Milbert Rd (attachment no.4) columns were 75cm in height, 105 Crendon Drive (attachment no. 5) columns were 66cm in height and 426 Renforth Drive (attachment no. 6) columns were 70 cm in height.

These above noted locations are not constructed as part of a fence and therefore do not fall under the same criteria or restrictions as defined by Chapter 447 of the Municipal Code. Staff can therefore conclude that there are no other similar structures or fences within the area surveyed.

Conclusions:

The height of the proposed wrought iron portion of the fence complies with the requirements of Chapter 447 respecting fences. The columns, however, supporting the fence as constructed, measure 1.52 metres to 1.83 meters in height, exceeding the height requirements as permitted.

Staff also note that though a proposal was submitted to Municipal Licensing & Standards owing to contact made with the applicant for non-compliance with the Municipal Code, the applicants proposal and submitted plans are not accurate and show the height of the columns to be a maximum of 1.4 metres (4 feet, 6 inches).

The columns as currently constructed not only exceed the maximum height permitted by the Municipal Code but also exceed the height of the applicants own proposal that was submitted for review. Should this request for an exemption be supported by Etobicoke – York Community Council, it should be noted there are no same or similar fences within the general vicinity, approval of the applicant's original proposal as submitted would still require considerable alteration to the columns as existing; and approval of the columns as existing would further deviate from the requirements of Chapter 447. Approval of either option may set a precedent permitting further requests for relief from the Municipal Code from other properties within the community.

Contact:

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(Attachments 1 to 5, referred to in this report, were forwarded to all Members of the Etobicoke York Community Council with the agenda for its meeting on November 15, 2005, and copies are on file in the City Clerk's Office, Etobicoke Civic Centre.)

The Etobicoke York Community Council also submits the report (August 31, 2005) from the Manager, Municipal Licensing and Standards, Etobicoke York District:

Purpose:

The applicant, being the agent of the owner of 74 Elmcrest Road, is seeking approval for an exemption to the provisions of the City of Toronto Municipal Code, Chapter 447, Fences, to erect a wrought iron fence with stone posts measuring 1.4 metres at the front yard of the property.

Financial Implications and Impact Statement:

There are no financial implications arising from this report.

Recommendations:

It is recommended that that the application be refused as the height of the columns exceeds the height provision of the City of Toronto Municipal Code Chapter 447, Fences.

Background:

On May 9, 2005, Municipal Licensing & Standards received a complaint that a wrought iron fence with concrete stone posts was being constructed at the front of the property with a height in excess of 1.2 metres (4 feet) (Attachments #1 and #2). An inspection of the property on May 10, 2005 revealed seven stone pillars had been constructed at the front of the property near the front property line. Five were constructed 1.52 metres high (5 feet) and measured 0.61 metres square (2 feet by 2 feet) and two (2) were constructed at 1.83 metres high (6 feet) and measured 0.76 metres square (2 feet 5 inches by 2 feet 5 inches).

Comments:

The City of Toronto of the Municipal Code, Chapter 447, Section 447-2, Fences, provides that the maximum permitted height of a fence located in the front yard of a residential property be no higher than 1.2 metres (4 feet), for an open mesh chain-link fence or equivalent open fence that does not restrict sight lines and 1 metre in height (3 feet 3 inches) for any other type of fence.

The proposal is to construct a wrought iron open picket fence with a height of 1.2 metres (4 feet) and the columns constructed to 1.4 metres (4 feet 6 inches) high. The proposed columns will be approximately 0.2 metres (6 inches) higher than the maximum permitted height for a fence located in a front yard, on a residential property.

Conclusions:

The height of the proposed fence will be 1.2 metres which complies with the requirements of the fence By-law. The columns supporting the fence will measure 1.4 metres high, and exceed the height requirement by 0.2 metres (6 inches) and therefore will not comply with the regulations set out in the Toronto Municipal Code, Chapter 447, Fences.

Contact:

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(Attachments 1 and 2, referred to in this report, were forwarded to all Members of the Etobicoke York Community Council with the agenda for its meeting on November 15, 2005, and copies are on file in the City Clerk's Office, Etobicoke Civic Centre.)

The Etobicoke York Community Council also considered the following communications:

- (i) (September 16, 2005) from B. Lamb; and
- (ii) (September 18, 2005) from Michele Pan.

Carla and Americo Carvalheiro appeared before the Etobicoke York Community Council.